

WINTER  
2015

# ASIA

# PARTNERSHIPS

NEWSLETTER

# VLS

## VERMONT LAW SCHOOL



### FROM THE DIRECTOR

It has been an exciting year for the U.S.-China Partnership, capped off by the recent announcement that we are changing our name to the U.S.-Asia Partnerships for Environmental Law (PEL). The change reflects our continued expansion throughout

Southeast Asia and our commitment to the environmental well-being of the region as a whole. Effective environmental protection requires cooperation across borders.

The U.S. Agency for International Development (USAID) extended its support for the PEL with a \$700,000 grant extension to continue our work in China and expand the scope to examine environmental impacts of Chinese investment in Southeast Asia.

Our work in Myanmar, supported by the Blue Moon Fund, continued through 2014. With our partners, we hosted a multi-day training for government regulators in February 2014 in Nay Pyi Taw, Myanmar. U.S. EPA Assistant General Counsel **Timothy Epp** and environmental consultant **Matthew Baird** presented and fielded questions at the events. With support from Heinrich-Böll Stiftung, the PEL continued the EIA trainings in the fall.

The program continued to work tirelessly in China. In March and April, we conducted capacity building training for student clinicians at South West Forestry University. Training was provided in part by Vermont Law School Professor Jack Tuholske, who is the technical advisor for the program.

The program experienced some personnel changes with the departures of **Martin Cosier**, our former LLM fellow who had been leading the Myanmar Environmental Governance Program for the past year, and its project specialist, **May Thazin Aung**. The program also lost **Adam Moser**, who had been with us since 2009. May will continue her studies at VLS and will remain closely connected to the PEL.

Our team remains cohesive and active, including associate director **Yanmei Lin**, LLM fellow **William Schulte**, and program coordinator **Nicholas Bihun**. As we develop our work in Southeast Asia, we will expand our team and keep you updated on our progress.

Sincerely,

**Siu Tip Lam**, Director

## A NEW NAME AND AN EXTENSION OF USAID FUNDING

The U.S.-China Partnership for Environmental Law at Vermont Law School has changed its name to the U.S.-Asia Partnerships for Environmental Law (PEL). This change comes as the program is broadening its geographic focus and incorporating new partners, projects, and opportunities.

In March 2014, the U.S. Agency for International Development (USAID) awarded the PEL a \$700,000 grant extension, increasing the total grant award to \$6.8 million. The new funding enables the Partnership to connect its eight years of experience working in China to critical environmental issues in Southeast Asia. With private funding, the PEL has been implementing an environmental governance project in Myanmar since 2013. The new name reflects this expansion of the Partnership's geographic scope. The PEL's efforts in China will continue to further the work of governmental and civil society organizations that address critical environmental and energy challenges; improve policy, law, and regulation; and develop sustainable best practices in environmental protection and energy regulation.

The growth of the Partnership is a natural process. It coincides with a time of great need as the region is experiencing rapid development that can be unchecked at times, with little regard for its impact on the environment and the greater public good. The U.S.-Asia Partnerships continue to support improved environmental governance and environmental justice in China and Asia.

"This extension reflects our accomplishments in China and will enable us to expand our expertise and work in the region," said **Siu Tip Lam**, Associate Professor of Law and Program Director of the U.S.-Asia Partnerships.

"USAID continues to offer Vermont Law a unique opportunity to make a difference

**"USAID CONTINUES TO OFFER VERMONT LAW A UNIQUE OPPORTUNITY TO MAKE A DIFFERENCE IN CHINA AND SOUTHEAST ASIA. WE HAVE A PROVEN TRACK RECORD IN CHINA, AND THIS GRANT EXTENSION REFLECTS THAT. WE LOOK FORWARD TO WATCHING AS OUR FACULTY AND STUDENTS CONTINUE TO POSITIVELY INFLUENCE ENVIRONMENTAL LAW AND POLICY IN THAT REGION."**

—**MARC MIHALY**, President and Dean

in China and Southeast Asia," said **Marc Mihaly**, President and Dean of Vermont Law School. "We have a proven track record in China, and this grant extension reflects that. We look forward to watching as our faculty and students continue to positively influence environmental law and policy in that region."



Visiting Chinese students at VLS this summer as part of the U.S.-China Student Collaborative Research Fellowship Program.



### U.S.-ASIA PARTNERSHIPS FOR ENVIRONMENTAL LAW

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## THE PEL TRAINS MYANMAR GOVERNMENT AND CIVIL SOCIETY ON EIA BEST PRACTICES

The PEL and its partners hosted a multi-day Environmental Impact Assessments (EIA) training for government regulators in February in Nay Pyi Taw, Myanmar. At the invitation of the PEL, U.S. EPA Assistant General Counsel **Timothy Epp** and environmental consultant **Matthew Baird** led the training. The success of this training helped launch an ongoing series of technical EIA trainings requested by the Ministry of Environmental Conservation and Forestry for its staff and an inter-ministerial EIA Review Committee. This series of multi-day trainings began in July and will continue through the fall of 2014. In addition to training government regulators, the PEL has also trained civil society groups and plans to conduct additional trainings on how NGOs can best engage in the EIA decision-making process. The PEL thanks the Heinrich-Böll Stiftung (HBS) for its support of the ongoing EIA trainings.



Top: Timothy Epp at EIA training in Myanmar. Bottom left: Yangon, Myanmar. Bottom right: EIA training participants

## SUPREME PEOPLE'S COURT PROMOTES ENVIRONMENTAL ADJUDICATION

In June 2014, China's Supreme People's Court (SPC) issued an opinion on improving effective environmental adjudication, and in July it established an Environmental Division. These developments bode well for increasing the role of the judiciary in managing China's environmental problems and disputes. Furthermore, they come after recent revisions to the Civil Procedure Law and the Environmental Protection Law, which open standing to some civil society organizations to bring public interest lawsuits against environmental harm.

Professor **Wang Canfa** and Huanzhu lawyer, **Liu Xiang**, PEL partners, were invited to several consultation conferences with the SPC in May and June and made important



contributions to developing the opinion, which included rules favoring NGO legal advocacy in courts. Although the opinion is not a judicial interpretation that has binding effect on judges, the rules and guidance provided in the opinion for accepting and handling environmental public interest cases show the development of the court's thinking toward more public access to the courts to address environmental problems.

Since its conception, the PEL has worked with its partners to promote environmental courts and increase the capacity of judges to adjudicate environmental cases. The PEL continues to build on past successes in this area and plans to work with Chinese judges in the future to prepare

them to effectively engage in environmental cases.

The Center for Legal Assistance to Pollution Victims and Huanzhu Law Firm, in cooperation with the Guizhou Provincial High Court, organized and conducted a week-long practical environmental law training for judges and prosecutors in June 2014 in Guizhou. The training targeted judges and prosecutors working on environmental law in western China. Forty-six judges, twenty prosecutors, and seventeen government employees attended the training.

The PEL hopes that with the enactment of the public interest standing provision in the EPL, courts will begin to accept the lawsuits filed by NGOs, many of which were not accepted under the standing provision in the revised Civil Procedure Law. In addition, Huanzhu had another opportunity to advocate for stronger environmental governance when two of its lawyers consulted with the SPC on the development of an opinion on improving effective environmental adjudication, including how the courts should apply the new Environmental Protection Law.

## WETLANDS TRAINING FOR STUDENT CLINICIANS

In June 2014, new student clinicians at the Environmental and Biodiversity Law Clinic (EBLC) at Southwest Forestry University in Kunming, China, took part in a field investigation at the Longmen wetland and Caohai wetland near Kunming Municipality. They learned the importance of wetlands in providing ecosystem services and how to collect water samples to monitor water quality and conduct interviews with local residents to gather information. This practical training equips the new clinicians with the tools to conduct field investigations in actual cases.

To give the students more practical training, EBLC organized two simulation exercises using a fact pattern based on a workplace injury matter. EBLC convened a mock labor dispute arbitration and a mock court hearing on a labor arbitration committee decision. Arbitrator **You Benchun**, from the Kunming Labor Arbitration Committee, and Judge **Yang Shuxing**, from the Kunming Intermediate Court, acted as arbitrator and judge, respectively, in the proceedings.

In March 2014, the Partnership conducted a capacity-building training for nineteen student clinicians. The training consisted



Students test water quality in Caohai wetland

of a lecture on “U.S. Environmental Law: Key Principles and Enforcement,” by VLS Professor **Jack Tuholske**, who is the technical advisor for the program; a lecture by Tuholske on a comparative study of wetland protection laws in the United States and in China; and a case strategy meeting in which Tuholske and Partnership director **Siu Tip Lam** provided comments and suggestions on developing case strategies in ongoing cases.

## PROFESSOR WANG CANFA WINS MAGSAYSAY AWARD FOR ENVIRONMENTAL RULE OF LAW

In July 2014, Professor **Wang Canfa**, a longtime partner of the PEL, was awarded the Magsaysay Award for his pioneering efforts to develop and promote environmental rule of

law in China. The Magsaysay Award is given to individuals in Asia who exhibit transformative leadership in their area of expertise. Wang founded the Center for Legal Assistance to Pollution Victims at the China University of Political Science and Law in 1998, and an environmental public interest law firm in 2010. Through these organizations, he has tirelessly advocated for the rights of pollution victims and the promotion of environmental rule of law.

The Magsaysay board noted that Wang Canfa’s leadership—through scholarly work, disciplined advocacy, and pro bono public interest litigation—ensures that the enlightened and competent practice of environmental law in China effectively protects the rights and lives of victims of environmental abuse, especially the poor and the powerless. Upon receiving the award, Wang said, “To protect China’s environment is to protect the world’s environment. To help pollution victims in China is to protect our individual environmental rights as well. I hope organizations dedicated to environment protection and social justice continue providing support to China to solve its environmental problems. This will help China not only to play a constructive role in global environmental protection; it will also transform its economic growth to be green growth.”



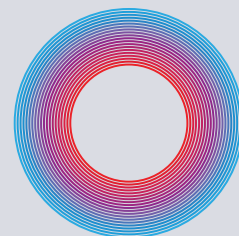
Wang Canfa, Director, Center for Legal Assistance to Pollution Victims at the China University of Political Science and Law

## ENVIRONMENTAL PUBLIC INTEREST ROUNDTABLE

On July 7, 2014, the PEL sponsored the Environmental Public Interest Roundtable in Beijing, which brought together some of China’s best known environmental lawyers and representatives from many high-profile NGOs. The event launched a new project to help environmental NGOs in China use legal tools, including the standing provision permitting NGO’s to sue on behalf of the public interest under the recently revised Environmental Protection Law, to improve and strengthen environmental governance and rule of law in China. At the event, Chinese NGOs, such as Friends of Nature and Green Anhui, and international NGOs, including Greenpeace and the Natural Resources Defense Council, convened to brainstorm how they will go forth with public interest litigation in 2015, when the revised Environmental Protection Law will go into force.

## VLS STUDENTS TO ASSIST MYANMAR DELEGATION AT COP20

In June 2014, PEL advised Myanmar officials as they drafted an ASEAN statement on climate change as a first-time ASEAN Chair. In December 2014, the country’s Ministry of Environmental Conservation and Forestry participated in the United Nations Framework Convention on Climate Change’s Conference of the Parties (COP20) in Lima, Peru, in December. VLS Professor **Tracy Bach**, an expert on international climate change negotiations, arranged to have her Climate Change class prepare



LIMA COP20 | CMP 10  
UN CLIMATE CHANGE CONFERENCE 2014



Tracy Bach

background research, negotiation text analyses, and meeting summaries for the ministry for COP20. In addition, Bach and her students traveled to Lima and provided assistance to the Myanmar delegation at COP20.

 U.S.-Asia  
PARTNERSHIPS FOR  
Environmental Law  
AT VERMONT LAW SCHOOL

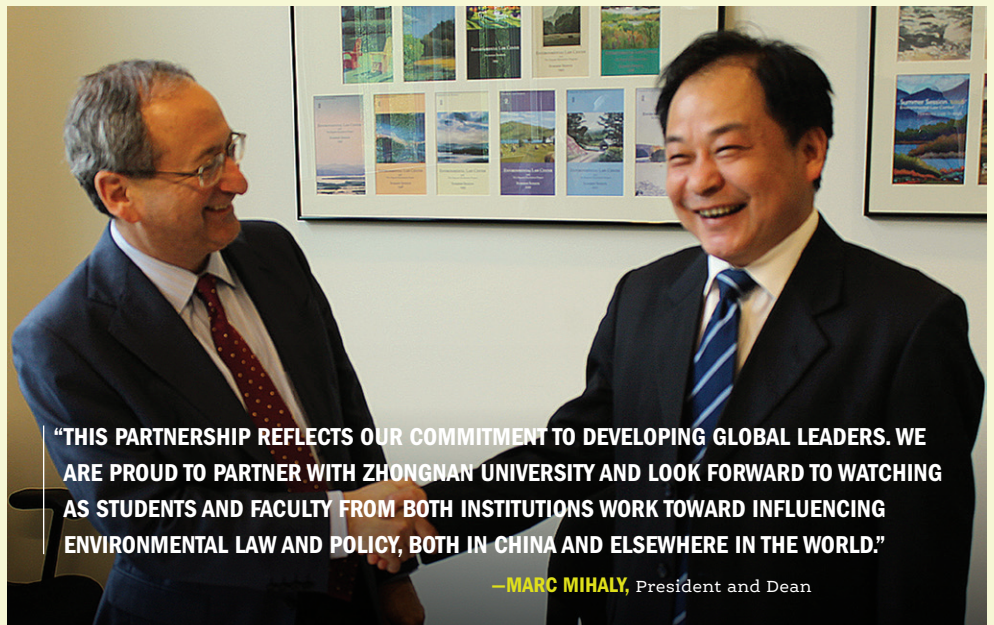
## VLS PARTNERS WITH ZHONGNAN UNIVERSITY IN CHINA

Zhongnan University of Economics and Law (ZUEL) in China and Vermont Law School have signed an agreement to collaborate on programs that will expand educational opportunities for students from both schools and promote exchange between faculty members. The agreement includes collaboration on student and faculty exchanges and training programs, degree and certificate programs, joint legal research projects, and publications on environmental and energy law research and policy development.

“This partnership reflects our commitment to developing global leaders,” said **Marc Mihaly**, president and dean of Vermont Law School. “We are proud to partner with Zhongnan University and look forward to watching as students and faculty from both institutions work toward influencing environmental law and policy, both in China and elsewhere in the world.”

The Zhongnan University delegation was comprised of Professors Liu Maolin, vice president; Han Long; Zhang Hong, vice dean of ZUEL law school; and Jiang He, assistant dean of ZUEL law school.

VLS, with the support of the U.S. Agency for International Development, launched the



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—**MARC MIHALY**, President and Dean

Marc Mihaly and Liu Maolin

U.S.-China Partnership in 2006 to advance environmental governance and rule of law in China. Now known as the U.S.-Asia Partnerships for Environmental Law, the

program also administers three environmental advocacy programs in Beijing, Guangzhou, and Kunming, China.