

ENVIRONMENTAL GOVERNANCE IN THE DEVELOPING WORLD

Vermont Law School

Summer 2018
8 Week Friday Term

Instructors:

Professor Lin Yanmei
Associate Director
US-Asia Partnerships for Environmental Law
Office: Jacobs House, 1st Floor
Ph: 802-831-1050
Email: YLIN@vermontlaw.edu

William (BJ) Schulte, Adjunct Faculty
Assistant Director
US-Asia Partnerships for Environmental Law
Office: Jacobs House, 2nd Floor
Ph: 802-831-1276
Email: williamschulte@vermontlaw.edu

Course Information: This class meets every Friday from June 8 to August 3 (no class July 6), 9AM-12PM in the Nina Thomas Classroom in Debevoise Hall. If you would like to schedule an appointment with either of us outside of class hours, please feel free to contact us via email or during class to do so.

Course Materials: All required course reading materials will be posted on TWEN. We will also post other supplementary materials that are not required reading but that may help you in your understanding and appreciation of the topics discussed during class. All required reading assignments will be indicated in this syllabus. As indicated in the Class Schedule section below, the syllabus will be updated with reading assignments as they become finalized. We will keep you informed of updates in addition to posting the updated syllabus on TWEN.

INTRODUCTION

While this course focuses on the development of environmental law and operates on the assumption that that is a desirable outcome, this is not a traditional environmental law course. This course is designed to introduce students to the unique challenges regarding the development, implementation, and enforcement of good environmental governance systems in the developing world. To that end, this course will generally eschew discussions of international environmental law and multilateral environmental agreements, and will instead focus on the domestic environmental law of developing countries, with a focus on China and South East Asia. Due to our work at the US-Asia Partnerships for Environmental Law, this course will draw from a variety of case studies from China and the lower Mekong region to illustrate key points. That said, students will be encouraged to research other areas of the world as part of the research they will conduct in this course.

Countries in Asia and other parts of the developing world represent some of the fastest growing economies in the world today, and they are also home to the large majority of the world's human populations. They also represent a wide array of political, historical, social, ecological and cultural contexts. While some have managed to implement relatively successful environmental governance mechanisms, most still struggle to do so. The 'perfect storm' of incredibly rapid economic development

in developing countries with generally weak environmental governance systems creates enormous risks for the future of the environment and natural resources upon which human populations depend. This course will seek to give students an appreciation for these risks and challenges and will encourage them to think analytically and creatively to propose solutions going forward. To that end, we will begin the course by discussing the elements of strong environmental governance as proposed by scholars and practitioners in the field, which in turn will serve as an analytical framework as we explore the various domestic environmental governance systems later in the course. It is our hope that thinking through these issues will give students a frame of reference through which to consider the environmental governance structures and challenges facing the United States and other industrialized, development nations.

Finally, conducting research on the laws, policies, and regulations of developing countries with different contexts can often be a challenge – therefore, this course will begin by giving students a framework for research methodologies that will enable them to conduct thorough research during the course and afterwards. Due to the nature of the research topics, this section will encourage students to use both traditional and non-traditional resources to find information and data. The course will encourage students to develop a specific research plan to use for the purpose of drafting the final paper for this course.

GRADING

- (1) Class participation (10%) – Students are expected to have read and familiarized themselves with the assigned reading materials and be prepared to engage in substantive discussions during class sessions.
- (2) Class presentation (20%) – Students will be required to prepare and conduct a 10-15 minute presentation to the class on their chosen research topics on the final day of class.
- (3) Research paper (70%) – Students will be required to conduct substantive research on a topic concerning environmental governance in the developing world, and produce a 15-20 page paper on that topic. Topics will be selected by the students in consultation with the course instructors.

CLASS SCHEDULE AND READING ASSIGNMENTS

June 8 – Course Introduction; Research Methodologies; Research Topics

Reading Assignments:

- Mr. Scott Fulton (General Counsel, USEPA) and Justice Antonio Herman Benjamin (High Court of Brazil), *Foundations of Sustainability*, [UNEP Report: Advancing Justice, Governance and Law for Sustainability](#), pgs. 17-22
- Gunilla Olund Wingqvist, et al.(Swedish Environmental Protection Agency), “[The Role of Governance for Improved Environmental Outcomes](#),” Report 6514 (September 2012)
- Explore WWF’s [Greater Mekong webpage](#) – specifically the “About” and “Challenges” links
 - NOTE: just skim this for information purposes

Guest Presentation:

Chenfang Yang, VLS Library Reference Librarian – Introduction to Research Methods and Tools for Conducting Legal Research on Foreign Countries

June 15 - Analytic Framework and Perspectives on Environmental Governance and the Role of Law

Reading Assignments:

- Marianne E. Krasny, “Tales of a Transdisciplinary Scholar”, in Marianne E. Krasny and Justin Dillon: *Trading Zones in Environmental Education*, Peter Lang, 2013 (TWEN)
- Ugo Mattei, Laura Nader, *Plunder: When the Rule of Law is Illegal*, Blackwell Publishing, Page 10-28; 65-76 (TWEN) (Explore other contents, if you have time) (TWEN)
- Thomas Dietz, Elinor Ostrom, Paul C. Stern, “The Struggle to Govern the Commons”, *Science* 12 Dec 2003:Vol. 302, Issue 5652, pp. 1907-1912 DOI: 10.1126/science.1091015 (TWEN)
- Elinor Ostrom, “A General Framework for Analyzing Sustainability of Social-Ecological Systems” *Science* 24 Jul 2009: Vol. 325, Issue 5939, pp. 419-422, DOI: 10.1126/science.1172133 (TWEN)

Optional:

Watch:

- Lecture - Norgaard talking about neoliberal economics theory as a religious gospel in US: <https://www.youtube.com/watch?v=OEyoEqO5tPY>

Skim:

- Peter J. Robertson, Taehyon Choi, “Ecological Governance: Organizing Principles for an Emerging Era”, *Public Administration Review*, Volume 70, Issue s1, December 2010, Pages s89–s99 (8 pages) Overview PPT is available at <https://prezi.com/jik63rrsgs0b/ecological-governance/> (TWEN)

June 22 – Environmental Governance in China

Reading Assignments:

- Environmental Law in China, Mitigating Risk and Ensuring Compliance, Oxford, 2011, Chapter 1, Page 3-11(*In Reserve & Library*)
- *Skim*: China’s New Environmental Protection Law, enacted in 2014, took effect in 2015 (TWEN)
- Alex Wang, The Search for Sustainable Legitimacy: Environmental Law and Bureaucracy in China, *Harvard Environmental Law Review*, 2013 (TWEN)
- Zhihe Wang, Huili He, and Meijun Fan, "[The Ecological Civilization Debate in China: The Role of Ecological Marxism and Constructive Postmodernism—Beyond the Predicament of Legislation](#)", last modified 2014, Monthly Review, accessed March 14, 2017. <https://monthlyreview.org/2014/11/01/the-ecological-civilization-debate-in-china/>
- Yanmei Lin and Jack Tuholske [Field Notes from the Far East: China’s New Public Interest Environmental Law in Action](#), 45 *ELR* 10855 (September 2015). Yanmei Lin and Jack Tuholske, [Green NGOs Win China’s First Environmental Public Interest Litigation: The Nanping Case](#), 45 *ELR* 11102 (December 2015). (TWEN)

Optional:

- **Watch**: Chai Jing's review: Under the Dome – Investigating China's Smog <https://www.youtube.com/watch?v=T6X2uwlQGOM>
- **Read**: Perry, Elizabeth J., and Sebastian Heilmann.: “Embracing Uncertainty: Guerrilla Policy Style and Adaptive Governance in China”, in *Mao’s Invisible Hand: The Political Foundation of Adaptive Governance in China*, eds, Elizabeth J. Perry and Sebastian Heilmann: 1-29, Cambridge, MA/ Harvard University Press (TWEN)
- Robert V. Percival, Huiyu Zhao, “The Role of Civil Society in Environmental Governance in the United States and China”, *Duke Environmental Law & Policy Forum*, Vol. 24, 2014, p. 142 (TWEN)

June 29 – The Belt and Road Initiative and Timber Trade

Reading Assignments:

- National Development and Reform Commission, Ministry of Foreign Affairs, and Ministry of Commerce of the People's Republic of China: Vision on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road (2015), http://www.china.org.cn/chinese/2015-09/15/content_36591064.htm (*Skim*)
- Baker McKenzie: *Belt & Road: Opportunity & Risk The prospects and perils of building China's New Silk Road* https://www.bakermckenzie.com/-/media/files/insight/publications/2017/10/belt-road/baker_mckenzie_belt_road_report_2017.pdf?la=en (*Also on TWEN*)
- Policy Brief: Forests Beyond the Law: Scientific Insights into Illegal Logging and Related Timber Trade (TWEN) ; *If you have more time, please read the report "Illegal Logging and Related Timber Trade - Dimensions, Drivers, Impacts and Responses. A Global Scientific Rapid Response Assessment Report."* (***pay particular attention on the environmental crime section***) published as *IUFRO World Series Volume 35*. (TWEN)
- Chatham House Report : Tackling Illegal Logging and the Related Trade What Progress and Where Next? (2015)
https://indicators.chathamhouse.org/sites/files/reports/Tackling%20Illegal%20Logging%20and%20Related%20Trade_0.pdf (page 28-40)

Optional

- Listen: Podcast, "China's One Belt, One Road: Will it reshape global trade?"
<https://www.mckinsey.com/featured-insights/china/chinas-one-belt-one-road-will-it-reshape-global-trade>
- Q n A session at Asia Economic Forum on "The One-Belt One-Road Initiative: Impact and Implications" <http://beltandroad.zaobao.com/beltandroaden/spotlight/story20170831-791374> – Explore the One Belt One Road news in Lianhe Zaobao webpage

July 6 – NO CLASS

***NOTE* - Classroom change: Class on July 13th will be held in Oakes 012.**

July 13 – Environmental Impact Assessment and Environmental Regulation

Reading Assignments: Reading assignments will be posted to TWEN at least one week prior to class.

July 20 – Building Capacity for Environmental Governance; Regional Issues and Cooperation

Reading Assignments: Reading assignments will be posted to TWEN at least one week prior to class.

July 28 – The Role of Courts in Environmental Governance in Developing Countries

Reading Assignments:

- China's Supreme People's Court Report 2016: Environmental Adjudication White Paper (TWEN)
- Rachel E. Stern. "The Political Logic of China's New Environmental Courts" *China Journal* Vol. 72 Iss. 72 (2014) p. 53 – 74 (TWEN)
- George (Rock) Pring & Catherine (Kitty) Pring, *Environmental Courts & Tribunals: A Guide for Policy Makers* (Page 1-42),
<http://wedocs.unep.org/bitstream/handle/20.500.11822/10001/environmental-courts->

[tribunals.pdf?sequence=1&isAllowed=y](#) (Also available at TWEN)

Optional:

- Watch: Prings' Video Presentation at the 2017 Environmental Adjudication Symposium
<http://mediaserv.law.du.edu/mp4video/rpring/The-Challenges-Facing-Environmental-Judges-Presentation-Rock-Kitty-Pring.htm>
- Skim: IUCN 'World Declaration on the Environmental Rule of Law' <http://www.environmental-adjudication.org/news/environmental-rule-of-law/>

Guest Presentation (TBD):

Professor Wang Canfa, Professor of Law at China University of Political Science and Law (CUPL), Director of UNEP-CUPL Academy of Environmental Law, Director of Center for Legal Aid to Pollution Victims at CUPL

August 3 – Student Presentations and Wrap-up Discussions