

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

Transcript of April 2013 Interview

This is *China Law & Policy* and welcome to our podcast. Back in January, Beijing saw some of the [worst air pollution](#) in its modern history. Even the state-run media, which usually tries to cover up environmental disasters, openly discussed the off-the-chart pollution levels that were literally suffocating the city. Did this open discussion signal change?

Certainly over the past decade China has passed many environmental protection laws. There has been increasing citizen awareness and on occasion government responsiveness. But what role has the law and litigation played in moving Chinese society forward? To help us understand where China is at in terms of environmental litigation is [Rachel Stern](#), assistant professor of law and politics at UC Berkley. Prof. Stern has had the fortunate opportunity to study and observe the development of China's environmental laws and litigation and has recently published her analysis in an amazing book, [Environmental Litigation In China: A Study in Political Ambivalence](#).

[01:03] **EL:** *Thank you for joining us today Rachel.*

[01:05] **RS:** It's a pleasure to be here.

[01:06] **EL:** *Let's start with the pollution in Beijing this past January, specifically the horrible smog that covered the city for days with residents being warned not to leave their homes. A lot of outsiders compared the [Beijing smog in January](#) to the [Great London Smog of 1952](#) or the [New York City killer smog of 1966](#). First off, do you think it's fair to compare Beijing's pollution to London's in the 50s or New York in the 60s? Is this the same level and type of pollution?*

[01:35] **RS:** Well, I can certainly see where the comparison is coming from. All those examples you mentioned are all examples of air pollution in major cities that are the outcome of industrialization and economic development. They're huge crisis events that really galvanize the public and draw attention to an issue area. So sure, I think the comparison is fair.

[01:59] Whether or not it is totally accurate is a little harder to say just because, at the risk of sounding like a social scientist, it is hard to get data that is exactly comparable. So one of the things that was in the news that you are probably know about was that China just started measuring particulate matter under 2.5 microns in January [2013]. So whether or not the quality of the smog is exactly the same, it's really hard to compare. That London smog that you mentioned, I just glanced back at some of the historical accounts, there were accounts that 4,000 people died in that smog. So that's not quite the same as the "air-pocalypse" that were coming out of.

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

[02:44] But I do think that the events are comparable in terms of drawing attention to a problem and galvanizing the public behind the issue.

[02:52] *EL: And that's what I think a lot of foreign journalists and China watchers kind of also looked at when they compared Beijing to London and New York. That they argue that these kind of incidents are necessary to get the society on board to promote environmental awareness and movements. But to what extent do you think China is different from London or the United States? Do you think the fact that China is a one-party state with a developing legal system will cause a different result?*

[03:20] **RS:** Of course. The fact that it is a one-party state with a developing legal system shapes all the possibilities for environmental activism in China. But let me talk about the part where they are actually kind of the same. I think one of the things we see in environmental movements worldwide is the difference between crisis events and chronic problems. Chronic problems: the fact that air pollution is terrible day in and day out, in general what happens is that people learn to live with it. It just becomes the new normal. Sometimes you get this with Chinese friends who are visiting the States for the first time and hadn't realized that it could be different.

[04:04] The role of the crisis event is to create a sense of urgency. Crisis events for that reason tend to play a really large role in environmental movements. So I am actually hopefully that the air-pocalypse will play a similar kind of role in China as the Great Smog and other events like that did in the United States.

[04:24] What's so different in China is that the opportunities for public participation are so much more limited. We'll talk more about this but it's really hard for NGOs to bring environmental litigation under the current legal system. So that's really different than here in the United States where NRDC and the Sierra Club were really instrumental in some of the major pollution law suits in the 1960s and the 1970s. And of course there is no elections [in China]. That's really different from Japan where the LDP started to take on environmental issues when they started losing elections over it. So that mechanism of accountability is somewhat broken in the Chinese case as well.

[05:04] *EL: You had mentioned in comparing London and New York to Beijing, it is kind of similar path with the industrialization so let's rewind a bit with China and focus now just on China. China basically starts industrializing in the early 1980s with Deng Xiaoping. With that we see the increasing environmental pollution and degradation. But when do you see the development of an environmental movement or concern about the environment? I know the past decade we have seen a lot of laws but do you see it before that and was there a certain incident or crisis moment that really sparked public and government attention to the issue before 2000?*

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

[05:44] **RS:** I always felt uncomfortable talking about China's environmental movement. I think I only started using that term with some degree of comfort maybe last year. It was really recent.

[05:55] **EL:** *What made you uncomfortable about using it?*

[05:56] **RS:** Well, movement implies a sustained political push by a large group of people. China's first environmental NGO is founded in 1994 by [Liang Congjie](#); that's [Friends of Nature](#). That's sort of the first generation of environmental NGOs in China is the in 1990s. They had a few really notable successes, particularly drawing attention to the hunting of a rare Tibetan antelope. That was one of the big, early Friends of Nature successes. But throughout that early period, the NGOs are really focused on environmental education and raising awareness of environmental issues. And they really had their work cut out for them. When I think about [surveys from the 1990s](#) they were just a few but they are really super interesting. One of the survey questions that got asked for example in Anhui province was "have you ever heard of the term environmental protection; have you ever heard of the term 'huangbao' [环保]" "Over 90% of people said "nope, never herd of it."

[06:59] **EL:** *Who were these surveys given out to? Who gave out the surveys and was it then just to the general public?*

[07:03] **RS:** No, it was to the general public in a rural part of Anhui province.

[07:06] **EL:** *Was this sponsored by the Friends of Nature NGO?*

[07:10] **RS:** No, this was a group of environmental researchers that were mostly based in the US.

[07:12] So that was the story throughout most of the 1990s. Then attention to environmental issues really started to pick up in the 2000s. There was a dramatic expansion of the NGO sector in general and a blossoming number of environmental NGOs were a big part of that story. With more groups you got more diversity of approaches.

[07:37] This coincides with a time when the central government started making environment more of a priority too. So one of the key moments was in 2007 when Wen Jiabao introduced the phrase "ecological civilization" – shengtai wenming [生态文明] – at the 17th Party Congress. A lot of observers, both within China and outside of it, really saw that as a sign that environmental issues were rising in prominence for the central government. So that was a big event that [17th Party Congress](#).

[08:07] The Green Olympics of course in Beijing – is it going to be possible to hold the Olympics in one of the world's most polluted cities? That was a huge event in the 2000s.

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

[08:18] Also the cancer villages and the amount of media attention surrounding villages were there were lots and lots of people dying of cancer. This was all the Chinese media, not the international media. But the linking of those cancer cases to pollution [was important].

[08:33] Those are three of the events in the 2000s that really, really jacked attention to environmental issues inside of China. And as the decade has worn on we have started to see more of the NIMBY [Not In My Back Yard] protests especially in the urban areas. I finally started to feel more comfortable thinking about an environmental movement. It's widespread enough and it isn't just a few people.

[08:54] *EL: You had said before that you don't have elections in China and that there is less accountability but this media attention to some of these cancer villages, the fear of 2008 Olympics being a pollution nightmare for the government, there is in a way some accountability.*

[09:12] **RS:** I think there is definitely responsiveness.

[09:14] *EL: Yeah, I guess that is different.*

[09:15] **RS:** Yes. I think there is some degree of accountability too through responsiveness. It's just that the mechanisms are different. In democracies elections are the mechanism by which government officials are held accountable. And here [in China] you have a government that is really trying to be responsive and you see this all the time in the kind of NIMBY protests that come out of urban areas. They [the Chinese government] actually back down quite a bit and give urban residents what they want. But that's because of fears of unrest or media pressure or being embarrassed; not because of elections.

[09:52] *EL: Now in terms of the Chinese government responding to some of this pressure. So the past decade has seen enormous amounts of laws written for environmental protection and you discuss this in your book Environmental Litigation in China. Based on what is written, how well written are [these laws] and how thought out are they?*

[10:13] **RS:** I think they're pretty well thought out. It's part of a big trend toward drafting lots of laws. The 1990s and 2000s were boom times for legal drafters in China. There are laws being drafted all the time on all subjects; we can't have gaps. Often the process of legal drafting is really a thoughtful one - of looking around the world, seeing what other countries do, trying to pick and choose the elements or the best practices that are really going to work well for China.

[10:47] So I think over the course of the last decade, the consensus has changed a little bit from saying China doesn't have enough environmental laws to saying well the laws that we have on the books, they're not perfect but they're not bad. So I think the consensus has shifted to thinking that the problem is really about enforcement, about the gap between what should be happening and what's actually happening.

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

[11:11] **EL:** *In terms of that, that gap....so you do have these laws and presumably with these laws you would see an increase in environmental litigation. Is that what your studies have shown? Has there been an increase in citizen litigation of environmental claims in China? What is the status of that litigation?*

[11:38] **RS:** I wish we had better data on that. [Laughing]. That would be really nice if you were writing a book on environmental litigation in China.

[11:39] All research is limited by the statistics the Chinese government chooses to release. The data on the numbers of environmental lawsuits have been really piecemeal. So the best data I have is from a Supreme People's Court work report from 2011. They announced that there were about 12,000 pollution compensation lawsuits the year before – so that would be 2010. The volume of litigation going through the legal system in general is about 4.1 million civil cases a year. So we have a tiny fraction. So it would be very small but that is true in all legal systems. Environmental lawsuits are always a pretty small portion of what is going on.

[12:25] **EL:** *So in the United States, so do you know what percentage are environmental cases?*

[12:27] **RS:** I don't know the exact percent but the numbers would be roughly comparable. Courts are mostly busy handling divorce, family matters, the kind of stuff that is much more every day. I'm pretty sure that the number of environmental lawsuits [in China] have been rising because there is clear data that the number of environmental disputes have been rising. So if disputes are going up, my expectations is that lawsuits are going up as well.

[12:58] **EL:** *And in terms of these lawsuits – keeping in mind that a lot of people who read this blog are American students of law or students of American law – what do these cases look like? Are they largely angry citizens bringing these suits on their own as pro se? What role do non-profits play? Is there a Sierra Club or an NRDC in China? And how do these cases play out in the courts in China?*

[13:27] **RS:** Most of the cases are what lawyers call tort cases. The cases that I am looking at are civil [tort] cases.

[13:35] **EL:** *A tort case is basically a case where someone has been injured?*

[13:39] **RS:** Yes, exactly. So they involve monetary compensation for damages. The archetypical case that always think about is: there is a chemical factory upstream and there is a guy farming fish downstream and there is a chemical spill at the chemical factory and the fish farmer wakes up and all of his fish are dead and he wants 10,000 renminbi [Chinese currency] from the chemical factory to pay for the dead fish. That's where the average case is in the Chinese legal system. It's not about environmental rights *per se*, it's about money, it's about monetary damages, and it's not necessarily about health.

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

[14:19] When I was writing this book in the end of the first decade of the 2000s, lawyers were trying to get money for health claims for pollution victims and that was very much on the frontier. If you could get money for a cancer victim and link that case to pollution, that was a huge victory. That was not the mainstream case that was going through the legal system at all.

[14:44] *EL: And is that more of a result of evidence issues to show that the --- because I mean I know even in the United States, if you see Erin Brockovich – which you mention in your book which I thought was funny – proving that people’s cancer is a result of a certain chemical, is hard even in the United States. Is that hard to show even more in China where presumably you wouldn’t have the resources because lawyers aren’t paid maybe in the same way.*

[15:10] *RS: Yeah, I think there are two things going on. I think the issue you are talking about is causation which is really hard. This is so hard in all environmental law suits; it doesn’t matter if they are happening in China or Zambia or New Jersey – that link is always super hard. And it’s really hard for Chinese judges to figure it out. Here in the US we would have competing experts dueling it out over what the ground water patterns show. In China what they tend to do is they tend to outsource this issue of causation to an appraisal agency. So judges impulse is usually to find a neutral third party to write something up.*

[15:47] One of the big issues that came out of my field work was that the quality of these appraisals are all over the place. Sometimes they are done really conscientiously by people with a really strong background in environmental science and they're really good. And sometimes they're really awful and done by people who have no idea what they're talking about. There is not a lot of quality control.

[16:09] So that’s the critical piece of evidence when it exists in these cases and one of the steps forward for Chinese environmental litigation to work better is that you have to control of the quality of these appraisals better than has been done in the past.

[16:27] *EL: In terms environmental cases getting into the court system – I know a lot of people talk about how the courts don’t have to take a case...*

[16:35] *RS: No, they sure don’t.*

[16:37] *EL: How successful are environmental cases in making it past that first hurdle?*

[16:43] *RS: It’s really hard. I think that's actually the biggest stumbling block is getting the case into court and convincing judges at the case acceptance division of the court [li'an ting -立案庭] that this is a good way to handle the dispute. That’s the moment in which the case is likely to be turned away. The best data I have suggests that if you get your case accepted by the court as a plaintiff in one of these environmental lawsuits, plaintiffs will get something, not everything they want, maybe it’s just one renminbi, but they will get something 50% of the time. So the big*

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

stumbling block is getting it in the door and convincing judges that this is a case that they can deal with, that it is within the court's jurisdiction and realm of possibility.

[17:33] *EL: You have the monetary relief, so you have to show damages for that guy whose fish are dead because of chemicals in the water. Do you ever see cases where they ask for injunctive relief, where they ask for the industry to stop polluting to shut down the industry or anything like that.*

[17:52] *RS: So a very typical sentence in an environmental decision will call on the polluter to stop harm. It is not an injunction but that's usually part of the decision. The problem of course is enforcement. It's very rare for the courts to follow up and make sure that the decision is actually enforced.*

[18:14] So one of the more exciting things that has been happening is that some of the environmental courts have been working with the environmental protection bureau to establish monitoring of decisions after the fact to make sure there's a cleanup plan and that it actually happens. But again that is really the frontier of where we hope environmental law is going as opposed to the mainstream of where it is right this second.

[18:41] *EL: I guess given all of that do you think there are successful environmental cases in China. You had talked in one of your chapters in the book about the [Pingnan case](#) where the villagers won on the law. They ostensibly won – the company had to clean up the pollution and pay a fine. But ultimately the fine amounted to such a small amount - \$63 USD per person.*

[19:03] *RS: I know, isn't that a depressing story?*

[19:04] *EL: It was very depressing.*

[19:06] *RS: Especially because this was the most celebrated environmental lawsuit of 2006. So this is trumpeted as a major victory and then it is kind of the glass is half empty. It's not that much.*

[19:21] *EL: In your mind and I guess in some of the people who are on the forefront of the environmental movement in China and the judges in the environmental courts and the governmental agencies that deal with it, how do they define victory? Do they really see this [the Pingnan case] as a victory? Do they understand that...*

[19:37] *RS: They would definitely see Pingnan as a victory. Not so much because of what the villagers got but because of the media attention the story got and the way in which it called attention to the issue and the way in which it reframed the debate.*

[19:53] So the media attention itself is a victory regardless of what people actually get. The articles that came out of the Pingnan lawsuit are questioning the old economic-growth-at-all-

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

costs model that has been on for so long. So in so far as the real story is about raising environmental consciousness and creating groundwork for the environmental movement, any lawsuit that gets national attention is a success.

[20:21] But it's hard to know. I would sometimes in my interviews, I would ask lawyers “can you tell me about a successful lawsuit?” And they would come back with a story and the punch line of the successful lawsuit for them was that the factory closed up and moved away. So then my next question is “where did it go?” The answer is often that it went to this poorer part of the province. So is that a real victory? It is for people who live in that place, but it raises real concerns about environmental justice and whether or not these lawsuits, if you take the nation as the unit of analysis, whether or not they are really doing that much to improve environmental quality. This is such a tough field, you have to celebrate every little success even it doesn't add up to success on the level of [*Brown v. the Board of Education*](#).

[21:1p] *EL: When that [Brown] came down wasn't enforced in a lot of places, it was just enforced in that one place and then the Supreme Court decided to wait to integrate. So I guess it is kind of fair to see Pingnan as a victory because it did get media attention and did raise consciousness but then it was just a little bit of money for the people that were harmed.*

[21:41] *RS: I know. I find again – just speaking in general – the plaintiffs tend to be pretty happy if they get any part of what they wanted. They really feel like the deck is stacked against them in these type of cases and if they get a fair hearing and if they get a portion of what they wanted, they tend to think that that that's a success.*

[22:03] *EL: What do you think are the major roadblocks to what we would define as success where the plaintiff is made more whole than they are being made right now? What are the major roadblocks you are seeing in environmental litigation in China?*

[22:17] *RS: Well we already mentioned two of the really big ones – one is getting the case into court and convincing judges that this is part of their responsibility to hear these kinds of cases and [second is] improving the quality of appraisals so that they have a real scientific basis and judges can really rely on them. I think that those two reforms would go a long way toward improving the quality of justice in these kind of cases.*

[22:49] The third one is enforcement of decisions. Putting teeth in the idea that you have to clean up after a decision as opposed to basically pay off plaintiffs with a little bit of money. It would be the third thing. And I think for that really to work there would need to be cooperation between the court and the environmental protection bureau to a much a deeper degree.

[23:11] *EL: What are you seeing right now between the court and the environmental protection bureaus?*

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

[23:15] **RS:** Usually nothing.

[23:16] **EL:** *In China is it that when the court orders for the plant to stop polluting the water is it then the responsibility of the local environmental protection bureau [EPB] to enforce that?*

[23:30] **RS:** Right now it is kind of no one's responsibility. It is kind of in a gray zone where nobody is going to be held to task for it, nobody is going to follow up, everybody knows that. One of the criticisms of China is that there is not enough judicial independence, the courts are too likely to communicate with other branches of government. The flip side is that you could really take advantage of that. If the courts were communicating with the EPB and making this cleanup part of the EPB's mandate, that could really make a big difference. Of course the problem is that the environmental protection bureaus are chronically underfunded and understaffed so that probably needs to be addressed. But at least the possibility is there.

[24:19] **EL:** *When I was reading your book, definitely these are problems in environmental litigation in China but honestly a lot of this seems to be problems in a lot of citizens' rights cases – disability rights things like that. Do you think this is also a problem in other areas?*

[24:38] **RS:** Totally. Some of its a little bit specific like the issues of the appraisals, that's a little special But problems getting cases accepted, problems getting decisions enforced, this is totally endemic to the whole legal system.

[24:55] **EL:** *Well, that's positive, at least it is not focused on environmental issues.* [Laughter]

[24:57] **RS:** No, it is not personal.

[25:01] **EL:** *The other thing in reading your book, I think a lot of people outside of China because there has been so much press about China passing so many laws one environmental protection, that in the Western press there is this talk of an environmental movement in China, you see protests. So you think oh, this is a hotbed of activity – stuff is really happening here. But then I read your book and I am like oh, no, not really. But when I did read your book, one of the hopeful things I did read it was there were parts where you talked about the success of administrative litigation in China. What's been happening with administrative litigation in China in the environmental sphere and can you just describe more what that looks like vis-à-vis civil litigation.*

[26:00] **RS:** So the most hopeful thing that I found was not so much in terms of civil litigation. I need to give a shout out to Zhang Xuehua whose research this really draws on. What she found is that there is a part of the environmental litigation law that's not that well know which is what call "non-litigation administrative execution cases." I always have to look at my notes because I never get that quite right. But that's what they are called and what it means – to put it in English

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

– is that under the administrative litigation law, government agencies can bring lawsuits in court when their administrative decisions are not being followed.

[26:53] What she found in Hubei province was that sometimes the environmental protection bureau brings these lawsuits in court to sue polluters who are not paying their fines and to get the court's moral authority and help calling these polluters to task. So you can get this sort of synergistic relationship and alliance that can emerge between the EPB and courts. So between two parts of the Chinese government that are traditionally perceived as very weak. They can kind of help each other out. The court doesn't have a lot of tools at its disposal but two things they can do is that they can detain managers of firms that are not paying up and they can freeze bank accounts. Plus they have some moral authority.

[27:34] So if you put all of this together, sometimes the EPB bringing these lawsuits can scare polluters into thinking “wow the courts have gotten involved, the judges have shown up, now I have to pay.” And she's [Zhang Xuehua] just describing this pattern – this alliance emerging – in just a few places. But it is really optimistic that there is that possibility of cooperation between these bureaus. They can get more done together than either one can ever get done on their own.

[28:03] *EL: So you're seeing this in just a few places in China? Has it spread since she started investigating Hubei. Do you think this is a model that will spread throughout China?*

[28:17] *RS: I don't know. I hope so. There's been quite a few of these non-litigation administrative execution cases in some of the environmental courts in Wuxi in particular and in Chongqing. In those two places this type of case makes up a large percentage of what the courts are dealing with. There it has provided real way for the court to get enough cases to justify its existence. I am optimistic that this may be a path forward for the environmental courts in particular. It kind of works out well for both sides. The EPB brings cases and that is a way for the environmental court to expand its case load and reach a more stable footing.*

[29:04] *EL: In terms of the EPB, the environmental protection bureaus on the local level and then – your book does talk about how even though they still are underfunded and understaffed it does talk about the huge increase in the number of staff that they have had over the past decade and that in 2008 the National Environmental Protection Administration was raised to a ministry-level which gives it more power. Is this changing the culture of people who work there. What are the types of people who work there. I know in the United States a lot of people who work at EPA, they are very into the environment and they will often go to NRDC or Sierra Club. Is that culture you are starting to see created in the government agencies that supervise environmental [issues] or is there still a lot of people where it's just a job?*

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

[29:55] **RS:** The visible upgrade in status for the environmental protection bureau employees over the last ten years has been positive. There is more of a feeling of pride in their work as you would expect as the work has more visible importance placed on it. I think there is a way to go before everyone who works for the EPB is a dedicated environmentalist. In the interviews I have done with EPB officials the discourse is usually – it is about protecting the environment – but it's mostly about finding more appropriate balance between economic growth and environmental protection. And recalibrating that balance so that it is more appropriate for the current moment in China. I think that makes sense for where China is right now and for the kind of rhetoric that is coming out of the central government. But it does strike me that there is a big gap between finding balancing point between economic growth and environmental protection and being a fervent and committed environmentalist as we might see here at least in parts of the EPA.

[31:12] **EL:** *Just to switch gears a bit, I do want to focus on one of your last chapters in the book which talks a lot about the foreign rule of law projects and environmental aid projects that have been happening in China for the past decade. Now as part of your research, you were able to attend some of these foreign sponsored conferences and see some the effects of this foreign aid. Can you give us a little bit of background on this and what the landscape looks like for foreign aid projects in the environmental sphere?*

[31:43] **RS:** Sure. I did most of the research for this book between the end of 2006 and the beginning of 2008. I wasn't really originally planning to write about international NGOs or foreign aid. But as I was doing my interviews in China at that point, it wasn't purely a domestic story, that it would be weird to write about environmental lawsuits and not write about the foreign, mostly international NGOs, who are trying to support environmental lawyers and environmental lawsuits and the development of public interest law in China.

[32:20] Once every two weeks, around that much, I would get an email announcing some kind of roundtable or training program or workshop on one of those themes. Whether it was environmental law or there was a lot of public interest law and public interest litigation. These were ideas that were really very much in the intellectual ether and really being promoted by a range of international NGOs. So I felt that I had to write something about those efforts and the kind of effect I thought they were having.

[32:57] **EL:** *And what do you think....based upon what you viewed, what do you think the efficacy of these programs are?*

[33:02] **RS:** I tried to write the chapter right down the middle; people react to it really differently. But what I was trying to say is that I think they have some successes in an extremely difficult environment for action. I think what's challenging is that these programs have been caught up in the seduction of quantification. There is a ton of pressure to count things, to have quantifiable outcomes for these programs. I think often in a worst case scenario, that boils down

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

to the number of people trained. How many trainings can we run? How many can we run in how many different areas of the country? How many people have been there?

[33:43] I think this is really the wrong approach because where I see the successes of these programs are not on the mass level. So if you have 100 people at a training I think 95 of them are going to go back to their same old existence. And I think that's as we would expect. Think about how many three-day workshops you have been to.

[34:04] *EL: I have been to a lot! [Laughter] And I go back to my old life a lot.*

[34:08] **RS:** Me too. I can't think of any three-day workshop I have been to that has changed the direction of my life. So I think that the effects are most evident for a very small minority of people who really use these as springboards to really change their life and their commitments. And I also think that they can be really effective in promoting ideas and putting ideas in circulation and discussion that were not there before. So I think those effects are really important but they're almost impossible to quantify which is why it is so frustrating for donors.

[34:40] *EL: In the past couple of months you have seen some foreign donors like the Canadian government and the Swedish government pulling out its aid to China on a lot of these projects. Do you think it's a smart move? What do you think will be the result if more donors follow suit and pull out aid from China for projects like these?*

[35:04] **RS:** I think donors have been pulling out because the economic argument - providing aid to China - holds absolutely no water any more. It's clear that China....

[35:15] *EL: ...is very wealthy....*

[35:16] **RS:** They should be giving us aid if you look at it as a tool for economic development or something like that. I am waiting for the discourse to shift so that we look at these programs as a tool of diplomacy. Which is really how I see them.

[35:33] *EL: I think you note that in the book and I think that's important that I think gets lost in the shuffle about quantifying all of these projects is that you learn whose on the ground. If you do the projects right you learn who is on the ground in remote areas that's doing really cool work and that can help...you can find out who those people are and see what is really happening.*

[35:58] **RS:** Yes. Your question was about what are we going to lose and when I think about what we are going to lose, one of the big things I think about is that we are going to lose a lot of knowledge about China because the people who have been involved in these projects for a really long time - like folks at the Ford Foundation and the American Bar Association - these are some of the Americans who are most knowledgeable about what's going on in China and some of the very few American voices that are on the ground participating in any way in domestic debates over what should happen with rule of law.

**China Law & Policy Interview with Rachel Stern, Assistant Professor of Law & Politics
U.C. Berkley
April 2013**

[36:30] **EL:** *Just in closing, where do you see environmental litigation and/or the environmental movement now that you are comfortable calling it that, where do you see it going in China in the future?*

[36:41] **RS:** Well the environmental movement is totally going to take off. Now that it is here and I am comfortable with it, I'm going to predict....

[36:46] **EL:** [laughing]...yes....now that you have written a book about it, it is going to take off....

[36:49] **RS:** No, I really think so though. I just see a growing demand for a reduction of risk; not just environment but also food safety. There is no question that Chinese citizens have a right to expect, increasingly expect and increasingly will expect government regulation to reduce risk in their lives. I'm not exactly sure what form that reduction of risk is going to take. It may take the form of regulation and beefing up regulatory agencies as opposed to courts and judges. That's the part that is not clear.

[37:27] I do think that the Chinese government will be responsive to these demands for risk reduction. But exactly how they are going to be responsive is not yet clear. This area is changing so fast. It was so hard to let this book go off to the publishers because the story is changing every year. Between when I started this book and when I finished it, laws on standing changed, 95 environmental courts opened around the nation, China Greenpeace brought their first environmental law suit in China.

[37:56] **EL:** *I guess you already have the second edition ready then....*

[37:58] **RS:** [laughing] Any day now. Just talk to my publisher about it!

[38:04] **EL:** *Well thank you for joining us Rachel. If people are interested in purchasing your book, it is a great book - [Environmental Litigation in China: A Study in Political Ambivalence](#) - where can they do that?*

[38:14] **RS:** They can buy it on Amazon and I would be delighted.

[38:18] **EL:** *Okay. Thank you so much.*

[38:20] **RS:** Thank you Elizabeth