Editorial

One year on, the need for the Chinese Journal of Environmental Law appears clearer than ever. Environmental law is developing quickly around the world, including in Asia. Increasing awareness of environmental problems produces more pressure to address environmental issues, which in turn is driving the emergence of new principles and concepts as a basis for new laws and policies.

Since the last issue of our Journal, two international courts have adopted important decisions. The International Court of Justice decided that the obligation of a State responsible for an internationally wrongful act to make reparation to the injured State extends to environmental damage and adopted a methodology for the assessment of compensation due for such damage.¹ A few days later, the Inter-American Court of Human Rights recognized the right to a healthy environment and, as a corollary, the human rights obligation of States to protect the environment.²

Treaties and other international instruments related to the environment have also been developing. In March 2018, Latin American States adopted a regional agreement on access to information in Escazú, Costa Rica.³ Further, under the UN Framework Convention on Climate Change, States participated

- 1 Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua) and Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica), judgment on Compensation owed by the Republic of Nicaragua to the Republic of Costa Rica of 2 February 2018 <<http://www.icj-cij.org/files/case-related/150/150-20180202-JUD-01-00-EN.pdf>>. See generally Diane DESIERTO, 'Environmental Damages, Environmental Reparations, and the Right to a Healthy Environment: The ICJ Compensation Judgment in Costa Rica v. Nicaragua and the IACtHR Advisory Opinion on Marine Protection for the Greater Caribbean' *EJIL Talk* (14 February 2018) <<https://www.ejiltalk.org/environmental-damages-environmental-reparations-and-the-right-to-a-healthy-environment-the-icj-compensation-judgment-in-costa-rica-v-nicaragua-and-the-iacthr-advisory-opinion-on-marine-protection/#more-15889>>.
- 2 Inter-American Court of Human Rights, Advisory Opinion OC-23/17 (7 February 2018) <https://www.elaw.org/system/files/attachments/publicresource/seriea_23_esp.pdf> accessed 6 May 2018 (Spanish only).
- 3 Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (4 March 2018) LC/CNP10.9/5 <http://www.accessinitiative.org/sites/default/files/regional_agreement_on_access_to_information_-_costa_rica.pdf> accessed 23 April 2018, not yet entered into force.

in preparatory meetings to COP24 (December 2018), where the 'Paris Rulebook' is to be adopted, while already engaging in the 'Talanoa Dialogue for Climate Ambition', an initial stocktaking exercise under the Paris Agreement. Meanwhile, the UN General Assembly agreed to set up a working group to discuss further steps towards the adoption of the French initiative to develop a 'Global Pact for the Environment',⁴ as an inherent part of an ambitious programme to investigate 'possible options to address possible gaps in international environmental law and environment-related instruments'.⁵

In China, the National Development Reform Commission (NDRC) outlined the highly anticipated modalities for a carbon market in December 2017.⁶ A few weeks later, the National People's Congress endorsed the creation of a comprehensive Ministry of Ecology and Environment.⁷

We continue to believe that it is important to document, analyse, theorize about and contextualize these fascinating developments. The contributions to the present issue do just that.

Two articles written by international research teams analyse the implementation of general principles of environmental law in Chinese environmental law and governance. In the first of these, Ipshita CHATURVEDI canvasses the tensions raised by the principle or concept of sustainable development—which, she argues, has too often focused on the modalities of sustainable industrial production rather than questioning the issues around consumption itself. She highlights the need to consider what could constitute a sustainable model of consumption and discusses the role of law in promoting sustainable consumption, particularly in the light of the precepts of the 2015 Sustainable Development Goals.

Otto SPIJKERS, Xian LI and Liping DAI review the implementation of global norms on public participation in China's water law. They show that

4 See the Joint Declaration between the President of the French Republic and the President of the People's Republic of China (10 January 2018) <<http://www.elysee.fr/communiqués-de-presse/article/declaration-conjointe-du-president-de-la-republique-francaise-et-du-president-de-la-republique-populaire-de-chine/>> accessed 7 May 2018.

5 UN General Assembly Resolution 72/277, 'Towards a Global Pact for the Environment' (10 May 2018) para 2.

6 National Development and Reform Commission (NDRC), Construction plan on the national carbon emissions trading system (power sector) (19 December 2017) <http://www.ndrc.gov.cn/gzdt/201712/t20171219_871034.html>.

7 XIN Dingding, 'China Announces Cabinet Reshuffle Plan to Streamline Government Work' *China Daily* (13 March 2018) <<http://usa.chinadaily.com.cn/a/201803/13/WS5aa7224ca3106e7dcc1412f6.html>> accessed 26 April 2018. See also WANG Jinpeng, 'Reform of China's Environmental Governance: The Creation of a Ministry of Ecology and Environment' (2018) 2:1 *Chinese Journal of Environmental Law* 109.

international rules tend not to be implemented at national level unless they are clear and specific. Often, as they note, 'it is not ... clear what type of public participation is called for, and which public should be invited to participate.'

Evan HAMMAN, PEI Liping, Denise BURLOFF and Alexandra LOCKHART analyse the laws and regulations addressing water pollution in the Yangtze River, in particular around Wuhan—the Chinese city from which our Journal springs. This cross-cutting analysis of Chinese environmental law reveals the growing influence of the 'polluter-pays principle' as the country opens up its economy.

Notes on four important recent developments follow. John KNOX, as the UN Special Rapporteur on Human Rights and the Environment, takes stock of his two mandates, which ended in June 2018. Turning to a particular set of rights, Lalanath DE SILVA reviews the newly emerged Escazú Agreement on Access to Information. Concerning concepts and principles underlying environmental obligations, Jaap SPIER presents a work that he and a team of eminent experts have developed to analyse the various obligations enterprises and investors should have with regard to climate change mitigation. On institutional developments, WANG Jinpeng discusses the significance of the creation of a Ministry of Ecology and Environment as part of the institutional reforms which took place this year in China.

Finally, this issue includes two book reviews, one by Yuan YANG of Bridget M HUTTER's edited volume on *Risk, Resilience, Inequality and Environmental Law*; the other by Ipshita CHATURVEDI of Eloise SCOTFORD's monograph on *Environmental Principles and the Evolution of Environmental Law*.

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