



LAW

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SUMMER 2013

Connecting Communities
Protecting the Planet

New Generation of Environmental Defenders

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of Environmental
Defenders**

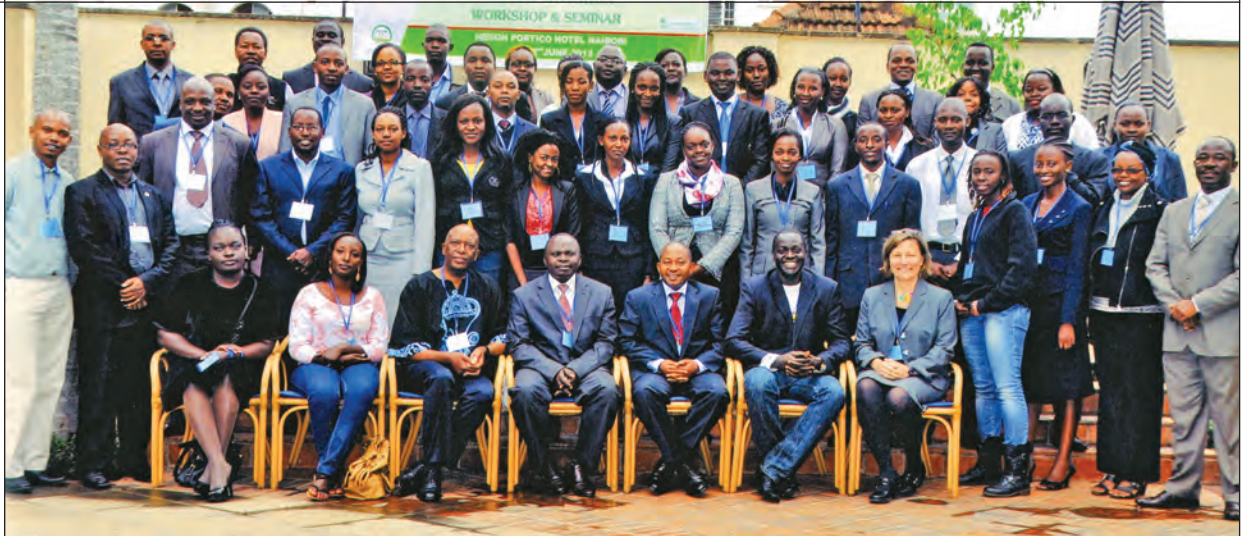
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East African Public Interest Environmental Law and Litigation Workshop, Nairobi, Kenya, June 21 – 22, 2013.

Communities and ecosystems in Africa are under siege.

Kenians face eviction to make way for coal and hydropower projects, Lake Victoria is polluted, oil prospectors are invading Uganda’s Murchison Falls National Park, and the government of Tanzania is weighing opening traditional Maasai lands to foreign big game hunting operations.

The good news is that a strong, growing corps of grassroots advocates is meeting these challenges. In June, nearly 50 public interest attorneys gathered at the East African Public Interest Environmental Law and Litigation Workshop. The workshop was co-hosted by ELAW, the Institute for Law and Environmental Governance (Kenya), Greenwatch (Uganda), and the Lawyers’ Environmental Action Team (Tanzania), with the help of the Public Interest Litigation Committee of the Law Society of Kenya.

“The turnout was tremendous,” says Jen Gleason, ELAW Staff Attorney. “There was a good mix of new lawyers, more experienced mentors, and many women.”

Jen has coordinated ELAW’s work in Africa for 20 years. “Foreign investors are eager to exploit Africa’s natural resources. It is critical to connect the pioneering lawyers we have worked with for many years to a new generation of community defenders, to level the playing field.”

ELAW partners know best how to protect local communities and the environment through law. The key to our work is identifying strong partners and building lasting, local capacity. The following are profiles of some ELAW partner organizations in East Africa and snapshots of their current work.

KENYA

Hydropower projects in the Lake Turkana watershed in northern Kenya have displaced communities and threatened the region’s already limited water supplies. Multinational corporations are beginning to pursue oil in this remote region, threatening to displace more communities and pollute water supplies. Meanwhile, communities in Kitui County in eastern Kenya are facing eviction to make way for companies to extract coal.

ELAW’s science team is working with local partners to help communities understand the true impacts of exploiting oil. ELAW Staff Scientists reviewed Environmental Impact Assessments for proposed oil drilling in the Lake Turkana Basin and a proposed oil terminal at Lamu Port.

Staff Scientist **Heidi Weiskel** says: “Construction of this port will destroy some of Kenya’s healthiest and most productive mangroves.” ELAW Staff Attorneys are also working to help understand complex natural resource concession contracts.



Lake Turkana

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“It is critical to connect the pioneering lawyers we have worked with for many years to a new generation of community defenders.”

Jen Gleason

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The Environmental Law Alliance Worldwide (ELAW) helps communities speak out for clean air, clean water, and a healthy planet. We are a global alliance of attorneys, scientists and other advocates collaborating across borders to promote grassroots efforts to build a sustainable, just future.

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New Generation (CONTINUED)



Founded 1948
www.lsk.or.ke

“The world has developed a sudden appetite to explore and exploit natural resources in East Africa. More than ever, the region needs the expertise and experience of ELAW, to protect human rights and help local lawyers, communities, and the public balance the desire by governments to industrialize.”

Eric Mutua
Chair, Law Society of Kenya



Established 2002
www.ilegkenya.org

“The workshop and seminar was a quintessential watershed in bridging the old and the new. If the energy and passion effusing from the event are anything to go by, it might go down in history as the momentous point in the revival of public interest litigation as a tool for securing social justice and sustainable development in East Africa.”

Benson Ochieng
Director, Institute for Law and Environmental Governance



Jen Gleason and Benson Ochieng at the Nairobi workshop.



Founded 2009
www.friendsoflaketurkana.org

“A healthy ecology is a healthy economy.”

Ikal Angelei, Founder, Friends of Lake Turkana

Eric Mutua, Chair, Law Society of Kenya, speaks at the Nairobi workshop.



TANZANIA

Destructive large-scale mining operations, a port expansion in Tanga Coelacanth Marine Park, polluting emissions from industries around Dar es Salaam, and private investors who want Maasai lands cleared for access by big game trophy hunters are some of the challenges facing ELAW partners in Tanzania.

The Lawyers’ Environmental Action Team (LEAT) and the Association for Law and Advocacy for Pastoralists (ALAPA) are helping communities make their voices heard and protect the environment.

LEAT helped communities in Ukonga-Mazizini win an order from the Ministry of the Environment to close a polluting abattoir and is now preparing a case against the National Environmental Management Council (NEMC) for its failure to enforce the Environmental Management Act of 2004.

“This is our nation’s framework environmental legislation and NEMC is allowing factories, mines, municipal authorities, and cut flower farms to pollute with impunity,” says **Rugemeleza Nshala**, longtime ELAW partner and founder of LEAT.

Elifuraha Laltaika, a new ELAW partner and founder of ALAPA, is working with traditional Maasai cattle herders who have lived in harmony for countless generations with three of East Africa’s most iconic landscapes: Serengeti National Park, Ngorongoro Conservation Area, and Maasai Mara National Park.

Tanzania’s 2012 census reports that 130,000 Maasai are living in the Loliondo Game Controlled Area, which borders all three of these parks.

In March 2013, Tanzania’s Ministry of Natural Resources issued an eviction notice to Maasai living in a 1,500 square kilometer area of Loliondo. The Ministry claims that this is to conserve wildlife



ALAPA works with women in Ngorongoro District to promote environmentally friendly practices.

breeding grounds, migratory routes, and water catchment areas. The community alleges that private interests want these lands cleared for access by big game trophy hunters.

The eviction notice was suspended in May 2013, following vehement opposition from the community. The government letter suspending the eviction stated: "this area should continue to be managed by the local communities who for a long time have been using traditional practices to promote conservation."

Eli and Rugemeleza have called on ELAW to help train Maasai leaders and ensure that their conservation efforts are based on traditional knowledge and sound science, and recognized by national decision makers.



Rugemeleza Nshala



Elifuraha Laltaika



Lawyers' Environmental Action Team
Founded 1994

"Young lawyers' and environmental managers who have joined LEAT in Tanzania and similar organizations in East Africa assure us that the environmental protection movement in East Africa is here to stay."

Rugemeleza Nshala
Executive Director, LEAT

ALAPA

Association for Law and Advocacy for Pastoralists

Founded 2009
alapa.or.tz/alapa

"With increasing foreign direct investments in natural resources that threaten the environment and community rights, international exchanges of legal and scientific experiences between environmental lawyers becomes an indispensable tool. Gone are the days when lawyers worked in solitary confinement."

Elifuraha Laltaika, Executive Director, ALAPA

Protecting the Yucatán

Trip Report by Lori Maddox



PHOTO: Roger de Freitas

PHOTO:
International
League of Conservation
Photographers

*ELAW can bring a team of attorneys, scientists, development professionals, campaign strategists, and community organizers to support local advocates, adding value to local initiatives and helping advocates achieve greater impact. In May, ELAW Staff Scientist Heidi Weiskel, Donor Liaison Michele Kuhnle, and ELAW ally Roger de Freitas traveled with me to México to work with **Alejandra Serrano** and the Centro Mexicano de Derecho Ambiental (CEMDA).*

CEMDA is working to protect natural treasures and strengthen the rule of law in México. What's at stake: Irreplaceable biodiversity that supports local economies throughout the Yucatán Peninsula.

Isla Holbox

The stunning landscape and rich fisheries of Holbox Island (pronounced "Hole-bosh") provide local employment in fishing and small-scale sustainable tourism tied to whale shark tours and fly fishing. Community members on Holbox are concerned about a developer's plans for hotels, villas, condominiums, offices, a shopping plaza, roads, and a helicopter pad, all located in the Yum Balam Protected Area. The community, now 1,800 people, would be dwarfed by the proposed "Ensenada" development, which would provide 2,450 rooms for visitors and cut channels through pristine mangroves to increase waterfront acreage.

Though the area was declared a Protected Area in 1994 and is recognized as a Wetland of International Importance under the Ramsar Convention, the government has yet to publish a management plan so it can regulate development in the area. A campaign is underway to compel the government to publish its plan so that Isla Holbox's natural treasures can be protected from ill-conceived developments.

We traveled to Isla Holbox and worked with Alejandra's clients – local hotel owners, restaurant owners, and fishers – who are working to articulate a vision for the

island that meets local needs and protects vital ecosystems for years to come.

With Alejandra, we hosted a workshop for roughly 60 community members. ELAW Staff Scientist Heidi Weiskel talked about the vital ecosystem services that mangroves provide. CEMDA's Sachiko Hayasaka talked about the economics of sustainable tourism – how much tourists are willing to spend for a holiday in a pristine place. Finally, Alejandra facilitated a discussion about the future community members envision for the island.

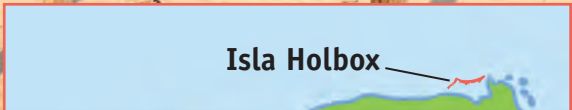
Following the workshop, the ELAW team worked in small groups with community leaders to talk about strategies for sustainable tourism development, management of the Yum Balam Protected Area, and enforcement of environmental laws.

"Isla Holbox is a sleepy gem of a place. The mangroves and birds take your breath away."

Lori Maddox



PHOTO: Lori Maddox



Cancún

In Cancún, we met with a consortium of environmentally-minded business leaders, the Comité del Desarrollo Sustentable. I highlighted the role of public interest advocates like Alejandra in creating a stable economic climate for ecologically-minded businesses to operate. These advocates uphold the rule of law by challenging companies that violate environmental laws, and crafting legal strategies that promote and reward sustainable business.

The business leaders in the Comité are trying to 'do the right thing,' but are frustrated when agencies ignore developers who are destroying natural resources. Alejandra is working with México's

enforcement agencies and has the support of the ELAW network to bring a world of experience to Quintana Roo.

We also introduced ELAW's work to government officials: the Yucatán Peninsula Coordinator of the Protected Areas Commission, and the Sub-Secretary for Ecology and Environment for Quintana

Roo. At these meetings, we demonstrated that Alejandra is part of the ELAW network with partners who are leading environmental advocates in 70 countries. Alejandra can call on ELAW for legal and scientific tools and support that may help these officials protect ecosystems.

The Sub-Secretary talked about the need for coordinated coastal zone management, and with ELAW's help, he hopes to convene a peninsula-wide workshop for government officials on crafting and implementing successful coastal zone management strategies. ELAW has introduced Alejandra to Bob Bailey, the recently retired manager of Oregon's Coastal Management Program, which is a model of effective management in the US. We hope to share Bob's expertise with local resource managers in the Yucatán Peninsula in the fall.

Puerto Morelos

As we arrived, Alejandra and community members in Puerto Morelos were celebrating their success stopping the advance of DragonMart, a proposed massive, foreign-funded retail development. DragonMart would have cleared more than 550 hectares of land – much of it in a protected area – to make way for 3,000 storefronts and more than 700 houses. The developers proposed dredging the seabed to accommodate more than 400 shipping containers per day.

Protecting the Yucatán (CONTINUED)

DragonMart would have destroyed critical habitat and the natural treasures that make Puerto Morelos unique. Fortunately, with Alejandra’s help, community members were able to persuade the municipality to deny permission for DragonMart to build.

The proponents of DragonMart have not given up and continue to push for government approval for this development. Alejandra will assist community members as they stand up to protect their rights and the environment.

CEMDA Southeast

Alejandra is thrilled to welcome a new team member, **Ximena Ramos Pedrueza Ceballos**. Ximena is a former ELAW volunteer and a graduate of Oregon Law’s LLM program. Alejandra and Ximena first connected at the 2013 ELAW Annual Meeting in February. Ximena is pleased to be again working in her home country, to protect communities and the environment through law.



Ximena Ramos Pedrueza Ceballos, Assistant Coordinator for Strategic Litigation, Centro Mexicano de Derecho Ambiental (CEMDA).



Bob Bailey is a former ocean program administrator with nearly 40 years of experience working on coastal management issues at local, state, regional, and national levels. Bob served as manager of the Oregon Coastal Management Program and served as Oregon’s delegate to the Coastal States Organization. Bob shared his expertise with ELAW partners, including Alejandra, during the 2013 ELAW Annual Meeting in Oregon.



Roger de Freitas is a conservationist and philanthropist with a dedicated interest in protecting mangroves and coastal ecosystems. He offers expert advice to NGO leaders on organizational challenges and opportunities. Roger’s keen observations and thoughtful insights reflect the years he has devoted to conservation through board and advisory board service. He currently serves on the board of the Mangrove Action Project, and as a Board Advisor of the Global Fund for Nature.



Lori Maddox, ELAW Associate Director, leads ELAW’s work in Mexico and Central America. She works with the Mesoamerican Legal Strategy Group to protect the Mesoamerican Reef and coastal watersheds, and build public interest environmental law in Belize, Guatemala, and Honduras.

ELAW Fellows Program: Rahul Choudhary, India



Rahul Choudhary, an attorney with the Legal Initiative for Forest & Environment (LIFE), is winning big victories before India’s new National Green Tribunal. He traveled to Eugene in June for a two-week ELAW Fellowship to work one-on-one with ELAW Staff Attorneys and Scientists. ELAW has collaborated with LIFE for many years and helped LIFE co-host the 2012 ELAW Annual Meeting, in Goa, India.

Camilla Mortensen reported on Rahul’s work in the Eugene Weekly, on June 27, 2013: “Green

India: Changing the face of enviro law.” The following is an excerpt:

“Environmental protection in India may be undergoing a sea change, and Choudhary and fellow attorneys at the Legal Initiative for Forest & Environment (LIFE), based in New Delhi, are leading the charge. The attorneys of LIFE are successfully arguing cases in front of India’s Supreme Court and National Green Tribunal (NGT) that are saving endangered animals, giving a voice to communities and protecting people, land and water from industries that could harm them. Choudhary recently came to Oregon to meet with the staff of the Eugene offices of the Environmental Law Alliance Worldwide (ELAW) and tour Lane County’s dumps, wetlands and enviro initiatives . . .

[Mark Chernaik, ELAW Staff Scientist] has worked with Choudhary for years giving him scientific support, [and] met him in person for the first time on the attorney’s recent trip to Eugene...

Though headquartered in New Delhi, Choudhary and the three other attorneys of LIFE spend their time in smaller Indian villages to help give voice to those communities’ needs when faced with industries that could devastate them. In one case that may sound familiar to Oregonians, given the current focus on coal exports and the impacts of coal trains, a coastal fishing community is up against a proposed coal-fired power plant near Mundra, Gujarat. Permission for this coal plant will be decided when the NGT reconvenes next month.”

Harriet Bibangambah and Lourdel Twinomugisha from Greenwatch in Uganda.

“New Generation” continued from page 3

UGANDA

Lake Victoria, the world’s largest tropical lake, is contaminated by untreated waste from homes, factories, and flower farms. Raw and poorly treated waste from abattoirs, hospitals, fish factories, pharmaceutical companies, soft drink bottlers, and more end up in the lake. National Parks and Protected Areas are also under threat. French multi-national oil and gas company TOTAL has test wells inside Murchison Falls National Park and companies are exploring for oil near Virunga National Park, across the border in the Democratic Republic of Congo.

Greenwatch, a leading environmental advocacy organization in Uganda, is taking on these issues. ELAW has worked with Greenwatch for many years, to help win a ban on micro-thin plastic bags and more recently to analyze the sources of waste entering Lake Victoria.

Greenwatch founder **Kenneth Kakuru** has had remarkable success litigating Uganda’s most important access to information, freedom of the press, environmental rights, and human rights cases.

Uganda’s President Museveni appointed Kenneth to Uganda’s Court of Appeal, which doubles as the nation’s Constitutional Court. That nomination was approved by Parliament and Kenneth was sworn in on June 20th this year.

Kenneth, who resigned as Executive Director of Greenwatch, leaves behind a team of committed advocates working to promote public participation in the sustainable use, management, and protection of the environment and natural resources. Greenwatch Legal Assistant **Lourdel Twinomugisha** and Research Officer **Harriet Bibangambah** both attended the Nairobi workshop. They have big shoes to fill.

“It’s my dream to see every Ugandan realize what the Ugandan Constitution envisages, a right to a clean and healthy environment. Working with Greenwatch enables me to contribute to this noble cause.”

Lourdel Twinomugisha,
Greenwatch Legal Assistant



Established 1995
www.greenwatch.or.ug





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“The leading scientific thinking at present states that we need to adopt the precautionary principle when it comes to seabed mineral exploitation. To understand exactly what the precautionary principle entails for Pacific Island countries, I recommend participants read the legal opinion about the term prepared by the Environmental Law Alliance Worldwide . . .”

*Ralph Regenvanu, Vanuatu’s Minister for Lands
(Island Business, June 10, 2013)*

We are pleased that Vanuatu’s Minister for Lands is advising his government to proceed cautiously in considering proposals to mine the sea floor, and hope that other Pacific Island leaders will soon follow his example. Find the legal opinion on the website of Act Now! – an online community founded by ELAW partner Effrey Dademo.



<http://actnowpng.org>



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