



ELAW

advocate

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Victories & Steps Along the Way for a Healthy Environment



Fishermen on Lake Edward in Virunga National Park in the Democratic Republic of Congo.

PHOTO: Dreamstime.com

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The ELAW Advocate is a publication of ELAW U.S. and does not represent the views of ELAW partners around the world.

We faced challenges in 2021, with the climate crisis, global pandemic, political turmoil, and new threats to communities and ecosystems. But ELAW partners around the world give us hope. Together, we celebrate some recent victories and steps along the way towards a sustainable future.

Democratic Republic of Congo Lake Edward Protected

Lake Edward, on the shores of Virunga National Park, suffers from overfishing due to lax enforcement of fishing regulations. Olivier Ndoole at Congolese Alert for the Environment and Human Rights (ACEDH) announces that in October his organization obtained the first ever court order declaring that fishing licenses that conflict with conservation management agreements violate the law. The order allows subsistence fishing to continue, but fishing licenses granted to outsiders are null and void. This should reduce pressure on the lake's fish and allow them to recover. Olivier was a 2020 ELAW Fellow. He says the idea for ACEDH's petition came from his meetings with ELAW staff during his Fellowship.

Dominican Republic Power Plant on the Ozama River Rejected

In June 2021, the Dominican Republic rejected a special resolution approving the installation of the Estrella de Mar III LNG-fueled electric power plant. The plant would have joined similar floating power barges that operate on the Ozama River, which runs through densely populated Santo Domingo. ELAW partner Euren

Cuevas, Executive Director of the Institute of Lawyers for the Protection of the Environment (INSAPROMA), says the barges are designed for short-term use to supply power in emergency situations in the open ocean, but have been running continuously in the middle of a community since the first was installed in 1989.

ELAW Staff Scientist Dr. Rye Howard analyzed the Estrella de Mar II plant that is currently in operation and explained the harmful impacts of these power barges, which are allowed to emit about 15 times more nitrogen oxides (NOx) than an average coal plant of the same size in the United States.

"We are seeing an uptick in partners working to challenge power barges," says Rye. "We suspect that these barges, which are just a cluster of huge marine engines bolted together and docked in the river, may be part of a bigger story of poorly regulated fossil fuel use."

In November, Euren reported that Estrella III has not yet begun to operate, although it has now been granted a temporary license to operate in place of Estrella II. His hope is that through public campaigns and the courts that INSAPROMA and civil society will pressure the government to terminate the license, and make sure it is not renewed. (CONTINUED ON PAGE 4)

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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.

Strengthening Indigenous Advocacy in Brazil

In 1996, Brazil’s Instituto Socioambiental (ISA) sent the first ever Indigenous lawyer in Brazil, **Paulo Celso de Oliveira** (Pankararu), to Oregon for an ELAW Fellowship. In 2021, ELAW partnered with Paulo and Instituto Pro Bono (IPB) to build the capacity of Brazil’s Indigenous lawyers working to protect human rights and the environment.

There are now roughly 90 Indigenous lawyers in Brazil and five of them, all from the Amazon region, are receiving mentorship through an ELAW Virtual Fellows Program.

In a recent meeting, Miskito attorney **Lottie Cunningham Wren** from Nicaragua and Kuna attorney **Hector Huertas** from Panama shared highlights from their decades of experience fighting for Indigenous peoples’ rights.

“I feel energized when I see the Indigenous youth around the world taking part in this fight,” said Lottie, who won a 2020 Right Livelihood Award for her “ceaseless

dedication to the protection of Indigenous lands and communities from exploitation and plunder.”

Ivo Aureliano, a Macuxi lawyer with the Conselho Indígena de Roraima (Indigenous Council of Roraima) was inspired by Lottie and Hector’s presentations, saying:

“Lottie and Hector, we hear about your work. You are an inspiration to us. We are going through troubling times in the Brazilian Amazon and this exchange of information is important. I am glad you are with us!”

Paulo said that dialogue between Indigenous lawyers in Brazil and other countries in Latin America who are working to protect the rights of Indigenous peoples is critical, because “we share similar problems.”

In the months ahead, ELAW staff will engage with our new colleagues in Brazil and build on our work to advance environmental and human rights advocacy.



ELAW Virtual Fellows met weekly over Zoom. Together, they:

- Collaborated with ELAW Staff Attorneys and Staff Scientists
- Heard from experts in Brazil about pending legislation before Brazil’s Congress
- Engaged with a judge at the Inter-American Commission on Human Rights
- Learned from an economic analyst about how extractive and development projects often overstate economic benefits
- Met with Indigenous lawyers from other countries and shared experiences
- Worked with ELAW’s Defending Defenders team to learn about international support resources for defenders under attack

“Lottie and Hector, we hear about your work. You are an inspiration to us. We are going through troubling times in the Brazilian Amazon and this exchange of information is important. I am glad you are with us!”

Ivo Cípio Aureliano, Macuxi lawyer with the Conselho Indígena de Roraima (Indigenous Council of Roraima, CIR) in Boa Vista, Roraima



Ivo Cípio Aureliano

Ivo Cípio Aureliano is a Macuxi lawyer with the Conselho Indígena de Roraima (Indigenous Council of Roraima, CIR) in Boa Vista, Roraima. CIR works to defend Indigenous rights guaranteed in Brazil’s Constitution and to strengthen the autonomy of Indigenous peoples in the state of Roraima. Ivo alerts communities to proposed projects on Indigenous lands and advances sustainable projects. He has argued before the Supreme Court to defend Indigenous peoples’ rights.



Christiane Baré

Christiane Baré is a Baré legal advisor to Coordenação das Organizações Indígenas da Amazônia Brasileira (Coordination of Indigenous Organizations of the Brazilian Amazon, COIAB). COIAB is the largest regional Indigenous peoples’ organization in Brazil. It operates in nine states and includes Indigenous peoples in voluntary isolation.



Kari Guajajara

Kari Guajajara is a Guajajara lawyer from the state of Maranhão. She serves as advisor to the Coordenação das Organizações e Articulações dos Povos Indígenas do Maranhão (Coordination of Organizations and Articulations of Indigenous Peoples of Maranhão, COAPIMA).



Felipe Apurinã

Felipe Apurinã is an Apurinã working with Indigenous peoples in the states of Amazonas and Acre. He is the youngest lawyer in the virtual training program. His work is focused on the Apurinã’s Indigenous Peoples Organization near the lower Purus River in Acre, in the city of Boca do Acre.

Eliésio Marubo is a Marubo lawyer for the Union of Indigenous Peoples of Vale do Javari (UNIVAJA), headquartered in Atalaia do Norte, Amazonas. The Indigenous land Vale do Javari has the highest concentration of isolated Indigenous peoples in the world.



Eliésio Marubo

2021 Victories & Steps Along the Way for a Healthy Environment



Estrella de Mar II. PHOTO: Image capture: Feb 2019 © 2021 Google (see page 1)

Argentina: Clean Water for Chacras de la Merced

For decades, residents of Chacras de la Merced have called on local authorities to clean up the Suquía River, which winds past their small community at the eastern end of Cordoba, Argentina. Years ago, ELAW Staff Scientist Dr. Meche Lu helped partners at Argentina's Center for Human Rights and the Environment (CEDHA) and a local lab identify a leaking sewage treatment plant as the source of pollutants in local wells near the river. Authorities brought in trucks with potable water and began laying water pipes. In November, the Cordoba Civil Court issued a key ruling, stating that the city and province are responsible for contamination from the sewage treatment plant and an independent body must report on the status of the plant and the Suquía River. Additionally, authorities must launch an Environmental Rehabilitation Program, to improve the water quality of the river. "This court ruling is a great step," says CEDHA lawyer Juan Picolotti. "The residents of Chacras de la Merced have fought for decades and will work hard to enforce this ruling."

Philippines: Saying No to Single-Use Plastics

We applaud Oceana, Filipino youth, fisherfolk, lawmakers, NGOs, and others who filed suit in October calling on the National Solid Waste Management Commission and state agencies to fulfill their mandates to reduce plastic pollution at its source, and ban single-use plastics in the Philippines. At the request of counsel for the Petitioners, ELAW provided the key Judicial Affidavit that makes the scientific case for why plastics are not environmentally acceptable as well as legal research supporting the comparative international law aspect of the case. This case gives hope to many that the lawsuit will trigger long-overdue action by key decision-makers to address the plastic waste crisis in the Philippines.

Poland: Moving Past Coal

In October, Poland's General Director for Environmental Protection refused to issue a permit for the Złoczew open pit lignite mine. If approved, the proposed coal mine would have been one of the largest lignite mines in the world. ELAW partners at Frank Bold cooperated closely on the case with Greenpeace Poland as well as local farmers who would lose their land if the mine were built.

ELAW Staff Scientist Dr. Mark Chernaik worked with Miłosz

Jakubowski, an attorney at Frank Bold's Krakow office, to develop an estimate of the expected CO₂ and methane emissions from the proposed mine. This information was absent from the EIA for the project.

Moving forward, Miłosz says his organization plans to speed up the energy transition in Poland, including closing existing mines.



Lake Vorozheske, Svydovets massif. PHOTO: Nata Mostova, CC BY-SA 4.0 via Wikimedia Commons

Ukraine: Saving the Svydovets

ELAW partner Environment-People-Law (EPL) celebrated a September 29 Supreme Court decision protecting the Svydovets massif from short-sighted plans for a giant ski resort. Developers proposed a resort complex with 60 hotels, 390 cottages, 120 restaurants, 10 multipurpose centers, and trails for skiing and off-road vehicles. More than 400 hectares would need to be cleared, including pristine forests. The Court decision sent the proposal for a new review, due to procedural violations, suspending construction plans that threaten habitat for more than 42 rare and endangered plant and animal species. ELAW has partnered with EPL for decades to protect the environment through law in Ukraine.

Jamaica

Diana McCauley, founder of the Jamaica Environment Trust, won a well-deserved 2021 Norman Washington Manley Award for Excellence in the field of Protection and Preservation of the Environment.

Malaysia: Victory for Fisherfolk and Estuaries

In September, Malaysian attorneys Meena Raman, Jessica Binwani, and Theiva Lingam announced that a proposed 4,500 acre mega-reclamation project on Penang Island was canceled. The project included construction of three artificial islands. Meena said, "A new EIA could be submitted by the project proponents, but we have put a dent in their plans and are prepared to fight it if they submit a new plan. Many thanks to ELAW Staff Scientists Drs. Heidi Weiskel and Mark Chernaik for your valuable analysis on this project over many years, and to ELAW Staff Attorneys Jen Gleason and Liz Mitchell, and ELAW partners in Jamaica, India, and South Africa who provided similar cases and legal research for this appeal."



"Fisherfolk will disappear. Cancel all reclamation projects." PHOTO: Facebook page of Nelayan Tanjung Tokong.

Mexico: Tala Landfill Suspended

In September, following weeks of protest by residents and 'ejidatarios' (collective landholders), construction of the Tala landfill in Guadalajara was suspended. The proposed site is adjacent to three neighborhoods within a biological corridor formed by the Tequila Volcano, Bosque La Primavera Biosphere Reserve, and Presa La Vega, a Ramsar wetland of international importance. ELAW partners at the Institute of Environmental Law, (IDEA) asked ELAW to review technical information justifying authorization of the landfill. ELAW Staff Scientist Dr. Meche Lu's comments, revealing that inadequate information was provided to grant the environmental license, were published in Mexico's *EL Mural* newspaper. IDEA founder Raquel Gutiérrez Nájera said: "Thank you Meche for your technical opinion that backed up the community's continuous mobilization to stop the construction of this landfill."

India: LIFE Wins Right Livelihood Award

The Legal Initiative for Forest and Environment (LIFE) was awarded a 2021 Right Livelihood Award "for their innovative legal work empowering communities to protect their resources in the pursuit of environmental democracy in India." Grassroots advocates at LIFE have inspired ELAW partners around the world for years.

South Africa: Groundbreaking SLAPP Judgment

In a series of defamation lawsuits, an Australian mining company tried to silence activists criticizing its mining operations in South Africa. The Centre for Environmental Rights (CER) in South Africa shares good news — a South African High Court found that SLAPP

suits (Strategic Litigation Against Public Participation) are an abuse of the legal process.

The Australian mining company and its local subsidiary had sued a group of South African activists and lawyers, claiming damages of nearly \$1 million. The High Court criticized corporations' attempts to silence activists, and emphasized the importance of upholding free speech so that activists and NGOs can respond to issues affecting society and the environment without fear of retaliation. "This victory should echo around the world and inspire courts to vigorously reject attempts to use legal processes to silence citizens," says Jen Gleason, ELAW Law Program Director. The mining company has appealed the decision and CER has cross-appealed. A decision is pending.

Sri Lanka: Cleaning Up an Ecological Disaster

In May 2021, the X-Press Pearl container ship caught fire off the coast of Colombo and sank, releasing toxic chemicals and littering Sri Lanka's coastline with polyethylene pellets. The incident was deemed the worst marine ecological disaster in Sri Lankan history and the largest chemical ship accident in the world. ELAW partners with the Centre for Environmental Justice (CEJ) have since filed public interest suits in Sri Lanka's Supreme Court and Appeals Court, seeking the establishment of a commission to assess the extent of the damage caused to the nature, fishing communities, and the tourism industry. ELAW has collaborated with CEJ for many years to protect the environment through law in Sri Lanka.



Polyethylene pellets litter Sri Lankan beaches.

Bahamas: Oil Drilling Permit Not Renewed

Lawyers from Callenders law firm representing Save the Bays and Waterkeepers Bahamas challenged a permit issued to the UK-based "wildcat" investor corporation Bahamas Petroleum Company (BPC) to drill "Perseverance #1," an exploratory oil well in The Bahamas. Although BPC completed its exploratory well before the court even scheduled arguments on the merits of the judicial review claim, BPC's attempt to renew its permit was denied — and the threat of BPC drilling for oil has gone away, at least for now. The challenge to the permit helped spark a wave of opposition to oil drilling off the coast of The Bahamas, and the momentum is growing.

Virtual Collaboration

The global pandemic has forced us to pivot much of ELAW's work to a virtual format. We are pleased with the impact of this remote work. The following are examples of recent trainings and webinars.

Judicial Training to Protect the Climate

Courts could play a key role in protecting the climate, but climate change cases are new to most courts. ELAW is pleased to collaborate with partners in Indonesia, Uganda, Cameroon, and more as they host workshops for judges to exchange views and learn from experts about this critical new field of environmental law.

ELAW Staff Scientist Dr. Mark Chernaik recently Zoomed into a workshop for Southeast Asian judges co-hosted by the Supreme Court of Indonesia and partners at the Indonesian Centre for Environmental Law. Mark joined a panel of experts who presented on the scientific questions judges should anticipate needing to answer in climate change-related litigation.

Building the Capacity of Lawyers in Cameroon

The failure to implement and enforce environmental laws in Cameroon is escalating environmental problems. "We have a commendable body of environmental and natural resource laws, and have ratified multilateral environmental agreements, but local lawyers need training to enhance environmental justice and sustainable development," says Nchunu Justice, Executive Director of the Foundation for Environment and Development (FEDEV).

ELAW is working with FEDEV to build the skills of Cameroonian lawyers. In September and November 2021, ELAW Staff Scientist Dr. Mark Chernaik Zoomed into workshops co-hosted by FEDEV; ELAW; the Ministry of Environment, Protection of Nature, and Sustainable Development (MINEPDED); and the Cameroon Bar Association. Mark presented an overview of evidence provided in environmental cases, with a focus on air pollution and water pollution. He also spoke about scientific evidence provided to ensure that Environmental Impact Assessments are accurate. ELAW Africa Law Associate Bernard Ngalim also joined the trainings, providing his expertise on Cameroon's international and domestic obligations to conduct environmental and social impact assessments.

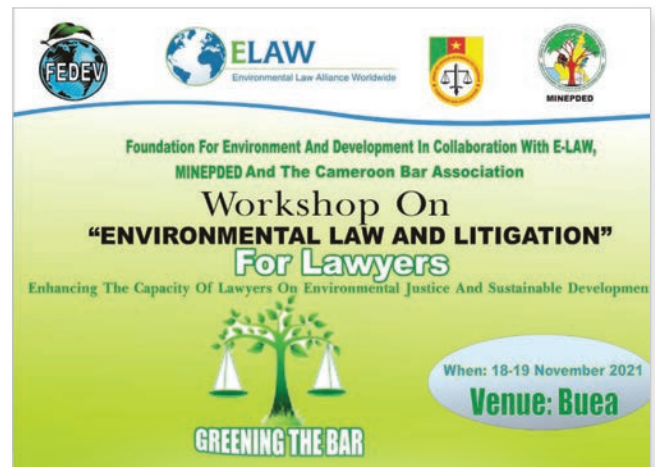
In a related effort, in 2020 more than 100 Cameroonian judges participated in "Environmental Law and Litigation" workshops in the mountain city of Buea, in southwest Cameroon, and in Bamenda in the northwest. This was co-hosted by FEDEV, ELAW, Cameroon's Ministry of Justice, and MINEPDED. ELAW staff and other international experts participated remotely.

International Climate Litigation

In October, ELAW Attorney Pedro León shared his expertise on an international climate litigation panel organized by the Inter-American Court and Commission of Human Rights, Mexico's Office of the United Nations High Commissioner for Human Rights, Mexico's UNAM University, Foundation Konrad Adenauer, and the International Committee of the Red Cross. He provided an overview of climate litigation around the world. The webinar was attended by students, human rights advocates, academics, and state officials from the Americas.



ELAW partners at CEMDA in Mexico hosted a book launch in October 2021 for "El Corredor Arrecifal del Suroeste del Golfo de México" (The Reef Corridor of the Southwest Gulf of Mexico). ELAW Staff Scientist Dr. Heidi Weiskel joined the online presentation, sharing her expertise about the Veracruz Reef System National Park and current threats posed by coastal development.



Inside ELAW



The Killian O. Doherty Legacy Fund honors a beloved member of the ELAW team. Killian passed away in February 2021.

Killian O. Doherty Legacy Fund

In 2021 we lost Killian O. Doherty, a beloved member of the ELAW law team. To honor his legacy, Killian's family and other generous supporters contributed funds to launch the Killian O. Doherty Legacy Fund. The Fund will build on Killian's legacy by creating opportunities for early career lawyers and law students to advance environmental justice through a 10-week paid position at ELAW.

We are pleased to report we are hiring our first Killian O. Doherty Environmental Justice Fellow! The Fellow will join ELAW's law team, learn about comparative Indigenous rights and jurisprudence, and collaborate with communities fighting for land rights and environmental justice around the world.

ELAW's Board of Directors voted to create an endowment that will allow ELAW to fund at least one 10-week Killian O. Doherty Environmental Justice Fellowship every year. Establishing this permanent Fellowship position at ELAW will honor Killian's memory by providing opportunities for others to gain experience in public interest law and collaborate with partners around the world.

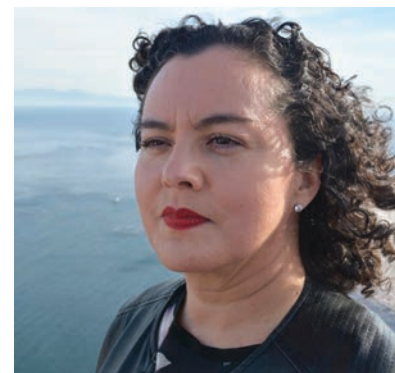
Killian came to ELAW originally as a volunteer extern and later managed to secure a stipend from the University of Oregon to fund his work with us. He quickly became an integral and indispensable member of our team and we brought him on as permanent staff. We hope that the Killian O. Doherty Environmental Justice Fellowship will be a pathway for more young advocates to launch careers dedicated to defending communities' rights and protecting the environment.

Welcome New Board Members

Carla García Zendejas is an environmental attorney from Tijuana, Mexico with more than 20 years' experience. She has been an ELAW partner since 1998 and has achieved numerous successes in environmental justice cases involving water pollution, energy infrastructure, and extractive industries. She is the Director for the People, Land and Resources Program at the Center for International Environmental Law (CIEL). Previously, she served as staff attorney and co-founder of Yeuni and worked with the Due Process of Law Foundation and the Border Power Plant Working Group. She has served on the boards of many civil society and nonprofit organizations and currently sits on the board of the Center for Economic and Social Rights and serves on the Steering Committee of the Coalition for Human Rights in Development. She earned a Masters in Law from the Washington College of Law at American University.

Amy Shannon is a non-profit management consultant who has served for more than a decade as Senior Advisor to Alianza Americas, a Latin American immigrant-led network that promotes racial, economic, and social justice across the Americas. She has worked extensively in philanthropy, both as a consultant and as a program officer in the Environment Programs at the C.S. Mott Foundation, and the John D. and Catherine T. MacArthur Foundation. In addition to her prior service on the ELAW board, Amy has served on other non-profit boards, including Pesticide Action Network North America, Interamerican Association for Environmental Defense, and Bank Information Center.

Alison Wright is the Director of the Environmental Defenders Collaborative (EDC) at Global GreenGrants Fund (GGF). Alison is trained as an attorney, and has worked with the Environmental Defenders Law Center, and the InterAmerican Commission on Human Rights. She set up EDC at the Biodiversity Funders Group, before it 'landed' at GGF. Alison brings experience and knowledge about responding to attacks on defenders, targeting the drivers of shrinking civil space, channeling critical resources to defenders, and strategic litigation to our board.



Carla García Zendejas



Amy Shannon



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Long-term Collaboration for Environmental Victories



Often, victories for communities and the environment are long fought and hard won. ELAW's collaboration with many of our partners spans decades, building strong relationships to advance environmental justice and defend key ecosystems.

Please consider setting up a monthly gift to ELAW at elaw.org/monthlygiving or by selecting **"Make this gift monthly"** on the enclosed envelope.

ABOVE: Conti Reunion- Ensenada. PHOTO: Fernando Ochoa

THINK GLOBALLY. ACT GLOBALLY.



Charity Navigator and GuideStar give ELAW their highest rating for financial management, accountability, and transparency. To make a gift to ELAW, please visit elaw.org/give or use the enclosed envelope. Please contact Karen Guillory, ELAW Outreach Coordinator, with any questions.

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