



ELAW

WINTER 2021

advocate

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IN THIS ISSUE:

Tackling Plastic Waste
(pgs. 1, 4-5)

Victory in India
(pg. 2)

Virtual ELAW Fellows
Anna Fomina
Emmanuel Umpula
Alpha Mariam Diallo
(pg. 3)

**Lottie Wins 2020
Right Livelihood
Award**
(pg. 6)

**Welcome
Amanda Parkes**
(pg. 6)

#HumansofELAW
(pg. 7)

**Thank You ELAW
Volunteers & Interns**
(pg. 7)

**Help ELAW Defend
Key Ecosystems and
the Global Climate**
(pg. 8)

The world is drowning in single-use plastic. Sea turtles strangled by six-pack rings and whales with bellies full of discarded plastic show that it's a marine pollution problem. But the problem really starts on land.

The problem starts at corporate headquarters where decisions about the cheapest way to design and distribute products are being made, without considering the costs shouldered by communities and our shared environment. This leaves it to communities and local governments to pay the price of collecting and disposing of the plastic container that was used, once, before it became garbage. In addition, as colleagues at the Center for International Environmental Law report, "[n]early every piece of plastic begins as a fossil fuel." This means that plastic production and the burning of plastic waste contributes to climate change.

Recent studies tell us that only 9% of plastic in the U.S. is recycled. Also, recycling doesn't mean that a soda bottle can be turned into a new soda bottle. Plastic degrades and becomes little bits of plastic that are part of our environment forever.

Corporations flood markets with products packaged in plastic, leaving it to communities and local governments to pay for collecting and disposing of the single-use plastic. Some countries and advocates are addressing this issue through Extended Producer Responsibility (EPR). EPR laws aim to make plastic producers and brand owners responsible for the cost of dealing with the plastic waste through the use of different tools, such as requiring companies to manage the plastic packaging, imposing fees or taxes, or providing incentives to encourage companies to ultimately reduce their use of plastic in their products.

So, how are ELAW partners tackling the problem?

Most corporations will continue to deliver their products in single-use containers, unless forced to do otherwise. The first laws adopted to tackle the waste crisis were plastic bag bans, with Bangladesh leading the way with the first ban in 2002.

The first wave of laws targeted plastic bags, imposing bans or fees for use. Then a few jurisdictions started adding straws. Item by item, the list of banned products is growing.

Now, we are seeing laws tackling product delivery systems. These laws aim to bring us back to the days when restaurants served food on dishes with utensils that were washed and used again. We hope to help partners across the globe push for comprehensive change.

Communities and NGOs are pressuring their governments to adopt strong laws, and local lawyers are going to court seeking orders requiring governments to do more.

(STORY CONTINUED ON PGS. 4-5)



Plastic waste in Uganda.

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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.

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

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Victory in India

Madras High Court Delivers Blow to Notorious Polluter Vedanta-Sterlite

Sterlite Copper, a unit of global mining conglomerate Vedanta Ltd., sought to reopen its plant in India which was ordered closed in 2018 after many years of toxic operations. The community celebrated in late August when the Madras High Court ruled that the Tamil Nadu Pollution Control Board and state officials were “fully justified” in ordering the plant closed based on Sterlite’s long history of non-compliance.

Nityanand Jayaraman, part of the campaign to hold Vedanta accountable for 16 years, writes: “Thank you to ELAW for the technical critiques and expert opinions, analysis and presentation of international best practices, and legal memos on various aspects of case law relating to closure of polluting units. Please know how much your contributions over more than 10 years have helped people here!”

A team of ELAW partners, including Adv. T. Mohan and Adv. A. Yogeshwaran, with senior Adv. R. Vaigai as lead counsel, along with other Chennai-based lawyers, including B. Poongkhulali, Chethana, and Annapoorani, lead the legal challenge. They were joined by D. Nagasaila, Shweta Narayan, and Dharmesh Shah who helped expose the company’s polluting ways.

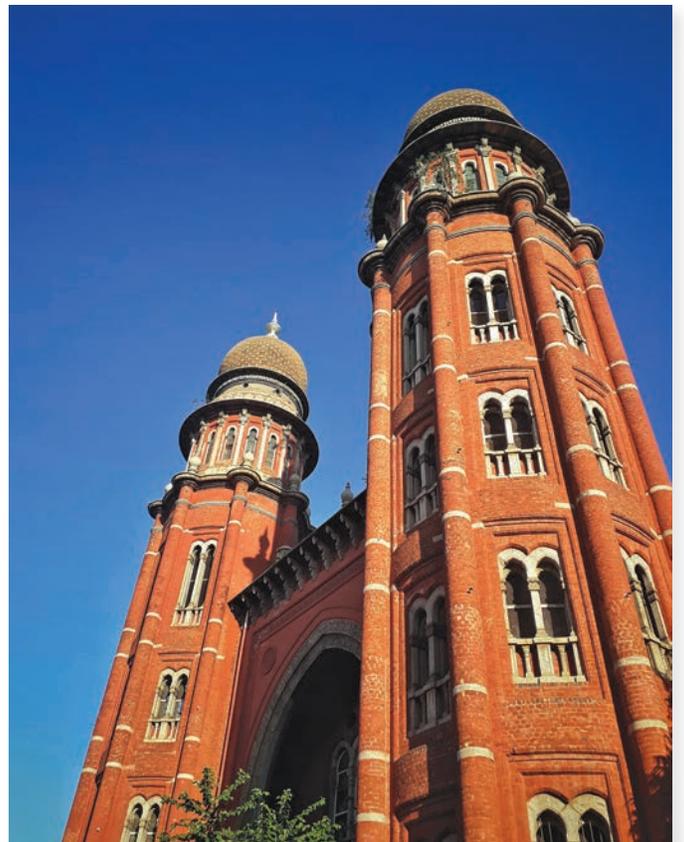
ELAW Staff Attorneys provided court decisions from other countries upholding closures of highly polluting facilities, rather than simply imposing a fine, and decisions emphasizing that industries must comply with conditions designed to protect the environment and public health.

The Madras High Court had earlier found that Vedanta-Sterlite was responsible for a disastrous sulphur dioxide leak in 2013 that affected thousands of residents in the port city of Thoothukudi. In 2018, tens of thousands of community members gathered to demand an end to Sterlite’s poisoning. Police opened fire on the protesters, killing 13 and injuring hundreds.

The recent High Court proceedings marked a key moment in the community’s long fight against Sterlite, reinforcing a theme that runs through decades of Indian jurisprudence: the environment must be protected for future generations!



Protesters marching against Sterlite copper plant.
PHOTO: Mksr2020 on Wikimedia Commons



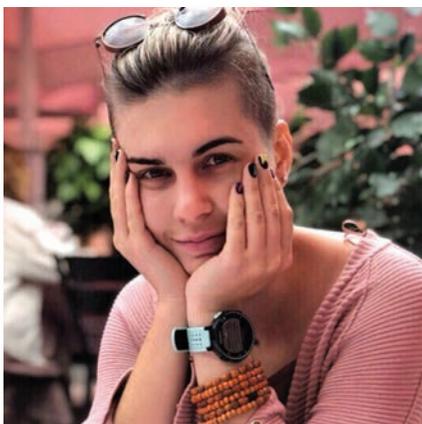
Madras High Court, Tamil Nadu, India. PHOTO: Febin Roy on Unsplash

“[E]conomic considerations can have no role to play while deciding the sustainability of a highly polluting industry and the only consideration would be with regard to safeguarding environment for posterity and remedying the damage caused.”

Vedanta Limited v. State of Tamil Nadu, August 18, 2020

Virtual ELAW Fellows

ELAW hosts ELAW Fellows to strengthen and grow the worldwide corps of grassroots advocates working to protect communities and the environment. In early 2020, before the pandemic shut down international travel, we hosted high impact fellowships at our office in Oregon for ELAW Fellows from the Democratic Republic of the Congo, Uganda, Croatia, and Ecuador. Since then, we have moved our Fellowship activities online, with good results. We are excited to be hosting the following virtual ELAW Fellows.



Anna Fomina is a Russian attorney working to protect communities in southwest Siberia from polluting coal operations. She is providing assistance to communities near the city of Kiselyovsk, in the major coal mining region of Kemerovo Oblast. The city has several open-pit coal mines that threaten the health of nearby residents. Anna is working to relocate residents, halt coal production, and restore the region's ecological balance.

In the months ahead, Anna will work with ELAW's law and science teams to assess health risks faced by residents living near the mines and explore the possibility of seeking justice through the European Court of Human Rights (ECHR).

Anna works as a consultant to the Heinrich-Böll Foundation, provides legal support to the NGO Ecodefense, and cooperates with groups bringing complaints before the ECHR on behalf of protesters who are illegally detained.

Anna began online English study at the University of Oregon's American English Institute (AEI) in September, to better tap legal and scientific resources not available in Russian and facilitate communication with grassroots advocates in the ELAW network.

Many thanks to the Trust for Mutual Understanding and the Stichting Foundation for Law for the Environment (FILE) for making Anna's ELAW Fellowship possible. Also, thanks to AEI for helping Anna secure a Janet Hughes Mersereau Scholarship.

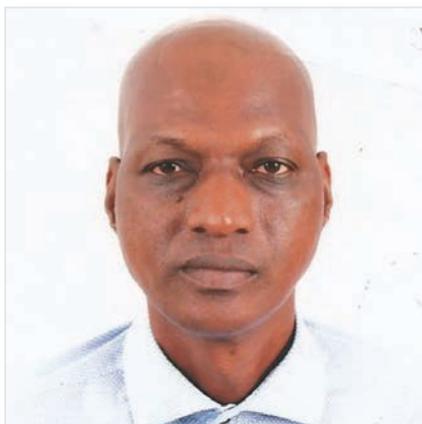


Emmanuel Umpula is an attorney with African Resources Watch, based in Kinshasa, Democratic Republic of the Congo. He is working to promote equal access to natural resources, including land, water, and minerals. He provides legal assistance and works to secure social justice for local communities. For example, he is working to reduce conflicts between mining companies and artisanal miners in Lualaba Province.

Emmanuel is working online with ELAW's science team to learn about environmental monitoring and how lab samples can be analyzed to identify pollutants.

Emmanuel is eager to strengthen his English to better collaborate with colleagues around the world and tap legal and scientific resources not available in French. He is participating in online English study through the University of Oregon's American English Institute (AEI).

Thanks to The 11th Hour Project for making Emmanuel's ELAW Fellowship possible. And thanks to AEI for helping Emmanuel secure a Janet Hughes Mersereau Scholarship.



Alpha Mariam Diallo is an attorney at Les Mêmes Droits pour Tous (The Same Rights for All, MDT) based in Conakry, Guinea. Diallo is working to strengthen community rights, including resettlement and compensation practices tied to resettlement. He is also working to address negative impacts of mining operations in the Boke region through analysis of environmental and social impact studies conducted by mining companies.

Diallo is collaborating with ELAW's law and science teams to evaluate environmental impact assessments and empower communities to make their voices heard in legal processes.

Diallo aims to strengthen his English to better collaborate with ELAW colleagues around the world, participate in international conferences, and tap legal and scientific resources not available in French. He is participating in online English study through the University of Oregon's American English Institute (AEI).

Thanks to The 11th Hour Project for making Diallo's ELAW Fellowship possible. And thanks to AEI for helping Diallo secure a Janet Hughes Mersereau Scholarship.

Tackling Plastic Waste



Plastic waste chokes a drainage canal in Kampala, Uganda. PHOTO: Greenwatch

Uganda

Pioneering ELAW partners at Greenwatch in Uganda brought one of the first court cases in 2002. They sought a declaration that the manufacture, distribution, use, and disposal of plastic containers, plastic food wrappers, and all other forms of plastic, including plastic bags known as “kaveera,” violates the rights of Ugandans to a clean and healthy environment. Greenwatch also sought a ban on the manufacture, use, distribution, and sale of plastic bags and plastic containers (of less than 100 microns) and regulations requiring recycling and re-use of other plastic products. Greenwatch went even further, seeking an order directing the importers, manufacturers, and distributors of plastics to pay the costs of environmental restoration.

ELAW lawyers and scientists collaborated with Greenwatch on this early case. In 2012, we celebrated when the High Court declared that the manufacture, distribution, use, and sale of ‘kaveera’ bags, containers, etc. violates the rights of Ugandan citizens to a clean and healthy environment.

Bangladesh and Sri Lanka

ELAW partners in Bangladesh and Sri Lanka have brought recent cases calling on their governments to tackle plastic. In Sri Lanka, ELAW partners at the Centre for Environmental Justice (CEJ) helped win a stunning court victory in October 2020 that ordered 243 containers of abandoned waste from the United Kingdom sent back to the UK.

“Sri Lanka is not a dump for international waste,” says Hemantha Withanage, CEJ Executive Director. “This an important step in our fight for justice.”

In Bangladesh, ELAW partner Rizwana Hasan and her team at the Bangladesh Environmental Lawyers Association (BELA) won a High Court order in January 2020 banning single-use plastic in hotels and restaurants. The Court also ordered the government to strictly enforce a current polythene ban.

ELAW’s law and science teams collaborated with BELA and provided peer-reviewed literature to strengthen the argument that plastic waste is causing harm in Bangladesh.

“ELAW support helped us present the facts more convincingly, particularly with regard to legal restrictions on single-use plastic in other countries,” said Rizwana. “The facts and figures from a wide range of global sources on how our oceans are being choked with plastic was invaluable.”

Over the years, ELAW has helped individual lawyers craft new laws and prepare to file cases. In 2018, ELAW U.S. became a core member of the Break Free From Plastic (BFFP) movement to help partners obtain the information they need and build partnerships with other organizations tackling plastic.



Kaveera (plastic bags) and other waste dumped in Uganda.



Contaminated UK waste abandoned near Colombo's Bandaranaike International Airport.



ELAW Law Program Director Jennifer Gleason traveled to Thailand in July 2019 to participate in a Break Free From Plastic global meeting.

New, innovative laws tackling the plastic peril

St. Lucia’s Styrofoam and Plastic Food Service Containers (Prohibition) Act, 2019 creates a phased approach to banning import, manufacture, sale, and distribution of listed Styrofoam or plastic food service containers. The law requires export to the country of origin for imported Styrofoam or plastic food service containers and prohibits burning these containers.

Senegal’s loi n° 2020-04 du 08 Janvier 2020 bans beverage containers and lids, cutlery and plates, straws and beverage stir sticks, and sachets of water or other beverages. *Sachets* are a growing problem and this law makes producers who put plastic products on the market responsible for the waste generated. The most important aspect of Senegal’s new law may be the ban on the import of plastic waste and the export of plastic waste, unless the Minister of the Environment has approved it, the importing country has approved the import, and the importing country has adequate treatment facilities.

Other examples of innovative laws include provisions requiring education programs on the use of plastic shopping bags and their impact on ecosystems (**Chile**); substituting truly compostable materials (**Guatemala**); imposing an environmental levy on imported goods packaged in plastic (**Rwanda**); bans on personal products that contain microbeads (**Taiwan**); and provisions to include waste pickers in formalized waste management systems (Buenos Aires, **Argentina**).



Single-use sachet

Activities Banned	Products Covered
Manufacture	Plastic bags
Import	Biodegradable bags
Distribution	Oxo-biodegradable bags
Transport	Plastic bags for unwrapped fruit and vegetables
Sale	Plastic cups
Marketing	Styrofoam cups
Use	Beverage containers
Possession	Beverage lids
Storage	Sachets for beverages
Supply	Plastic foodware
	Styrofoam foodware
	Polystyrene hinged/lidded containers
	Plastic plates
	Plastic bowls
	Plastic trays
	Plastic utensils
	Plastic chop sticks
	Plastic straws
	Plastic stirrers
	Styrofoam egg containers
	Plastic film
	Plastic balloon sticks
	Plastic packaging in the mail
	Disposable plastic products in hotels
	Cosmetic products including toothpaste w/ microbeads
	Release of balloons and plastic confetti

ELAW staff and a team of volunteers have collected, catalogued, and reviewed more than 170 laws, primarily from the Global South, to share as models and lessons learned. As we review each law, we learn about what governments are doing and share this information to help promote robust laws. Looking outside the U.S. and Europe, we have found the following bans (see above chart). As we continue to review laws, this list will grow.



“Plastic Law” is ELAW’s new online resource, with innovative laws from around the world, strategies for addressing single-use plastic, and court decisions to inspire governments to adopt robust laws and lawyers to bring cases urging strong government action. This is a new resource we are building, so check back for updates.

Governments begin to address the roots of the plastic problem when they move from simple plastic bags bans to more comprehensive laws. These laws will help drive a needed overhaul of the way businesses deliver their products. Some companies are starting to make the transition, but others need to be pushed through law reform. Also, those of us using plastic in the United States need to deal with our waste at home rather than shipping it abroad.

Lottie Wins 2020 Right Livelihood Award

We are thrilled to announce that ELAW partner Lottie Cunningham Wren in Nicaragua has won a 2020 Right Livelihood Award “for her ceaseless dedication to the protection of indigenous lands and communities from exploitation and plunder.”

Lottie joins three other 2020 Laureates: imprisoned human rights lawyer Nasrin Sotoudeh from Iran, U.S. civil rights lawyer Bryan Stevenson, and human rights activist Ales Bialiatski and the non-governmental organization Human Rights Centre “Viasna” in Belarus.

“Lottie’s tireless work to defend Indigenous communities on the Atlantic Coast of Nicaragua has inspired ELAW partners around the world for decades,” says Lori Maddox, ELAW Associate Director.

The Prize announcement states:

“Lottie Cunningham Wren is a lawyer from the Miskito indigenous group defending the rights of indigenous peoples in Nicaragua to their land and resources. She has been instrumental in ensuring legal protections, including initiating the process of demarcation and titling of indigenous lands in Nicaragua. Cunningham has also fought to uphold the human rights of indigenous peoples and Afro-descendants, protecting them and their livelihoods from armed settlers.”

The Right Livelihood Award was established in 1980 to “honour and support courageous people solving global problems.” It has become widely known as the ‘Alternative Nobel Prize’ and there are now 178 Laureates from 70 countries.



Lottie Cunningham Wren PHOTO: Right Livelihood Foundation

"Lottie's tireless work to defend Indigenous communities on the Atlantic Coast of Nicaragua has inspired ELAW partners around the world for decades."

Lori Maddox, ELAW Associate Director



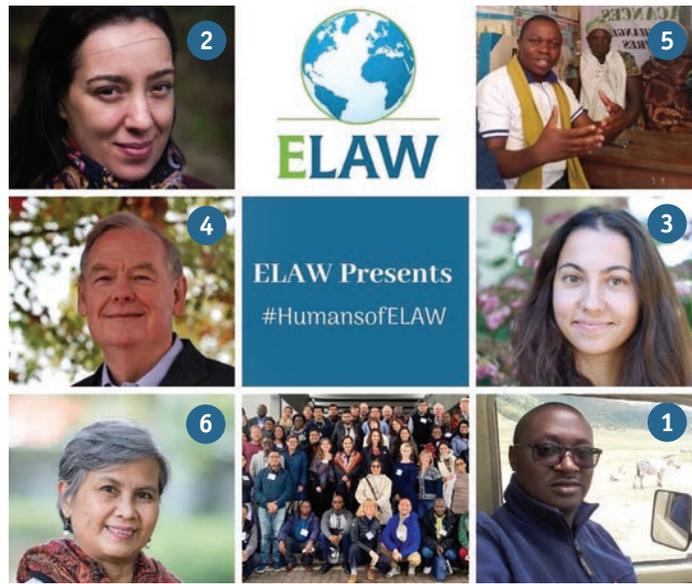
Amanda Parkes

Welcome Amanda Parkes ELAW Bookkeeper

Amanda joined ELAW in 2020 as our bookkeeper, bringing nearly a decade of nonprofit program experience focused on community health, nutritious food access, and human services. She is also a registered dietitian with a degree in Food Science and Nutrition from Colorado State University. She enjoys working directly with community members as a Community (plastic) Collector for Eugene’s Community Recycle Program and a volunteer for various essential needs distribution programs and community powered events and fundraisers.

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#HumansofELAW



The ELAW network brings together hundreds of inspiring grassroots advocates from all over the world. This fall, ELAW highlighted the voices of a few of our partners through #HumansofELAW.

- 1** "I am inspired by the unique place of law in society. It can be used as a business tool, but it can also be used as a driver for social justice and positive change to protect humanity and the environment."
 Gift Joshua | Association for Law and Advocacy for Pastoralists | TANZANIA
- 2** "The executive branches of Brazil's government have failed to fulfill their duties to demarcate and title indigenous lands. Now, it is more important than ever to help indigenous communities defend their traditional land rights."
 Juliana de Paula Batista | Instituto Socioambiental | BRAZIL
- 3** "Many pesticides that are legal in Ukraine are banned in the European Union. This leads to hundreds of poisonings every year, environmental pollution, and loss of biodiversity. I am inspired by local communities and people who struggle because their environmental rights are violated."
 Kateryna Norenko | Environment-People-Law | UKRAINE
- 4** "Toxic mine pollution wiped out salmon in the Jordan River on Vancouver Island. My team prompted the government to order a remediation plan. Now, salmon are beginning to return."
 Calvin Sandborn | University of Victoria Environmental Law Centre | CANADA
- 5** "Land rights are an engine for social and economic development. We must strengthen these rights, and build transparency, to promote growth, meet basic needs, and realize human rights."
 Olivier Ndoole | Alerte Congolaise pour l'Environnement et les Droits de l'Homme | THE DEMOCRATIC REPUBLIC OF THE CONGO
- 6** "A Japanese oil firm was considering operations in the Tañon Strait. My team and I filed two lawsuits, on behalf of dolphins and whales, and one seeking to protect local individual fisher folk. While the Supreme Court ruled that animals don't have standing to sue, they did rule that ordinary citizens may do so 'as stewards of nature.' This ruling matters now and for future generations."
 Gloria Estenzo Ramos | Oceana | PHILIPPINES



Thank You ELAW Volunteers & Interns

Volunteers and interns help ELAW provide the legal and scientific tools partners need to protect the environment and advance human rights. We appreciate the people who contributed their time and expertise in 2020 to support grassroots advocates working around the world to build a sustainable, just future.

- Sonia Altenhoff • Howard Arnett • Alexis Biddle • Martine Coguie • Cheryl Coon • Sarahi Covarrubias
 Peggy Dame • Adriana Díaz • Kergis Hiebert • Eli Holmes • Ebba Hooft Tommey • Amy Johnson • Zoe Light
 Celia Maximin • Daniel Moltke • Anya Mitz • Lily Nelson • Allison Payne • Tom Reitter • Charlie Tebbutt
 • The many Catchafire volunteers who provided support to ELAW

Many thanks to the following individuals for lending their expertise as members of the ELAW U.S. Board of Directors: • Michael Axline
 Roanne Bank • John Bonine • Maxine Burkett • David Hunter • Manuela Huso • William Jaeger • Glenn Miller • Cleven Mmari
 Monica Moore • Jim Offel • Scott Pope • Amy Shannon • Mick Westrick



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Help ELAW Defend Key Ecosystems and the Global Climate



Fisherman on a tributary of the Brahmaputra River, Assam, India. PHOTO Roha Reddy on Unsplash

The Environmental Law Alliance Worldwide is collaborating with public interest lawyers around the world to challenge projects that would abuse the climate and damage key ecosystems. So far this year, we have worked with community advocates in more than 56 countries to stop abusive projects and defend wetlands, forests, and oceans. More lawyers are calling on us and we hope you can help.

To support ELAW's high-impact work, please visit: elaw.org/give, return the enclosed envelope, or contact ELAW Outreach Coordinator, Karen Guillory, karen@elaw.org, 541-687-8454 x.105.

THINK GLOBALLY. ACT GLOBALLY.

