



Connecting Communities  
Protecting the Planet

## Holding the Mining Industry Accountable

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Dongria Kondh protesting Vedanta mining project.

The rising price of gold, nickel, bauxite and other metals means communities around the world face more pressure than ever from the mining industry. ELAW advocates in India, Papua New Guinea, Panama, Honduras, and other countries are calling on ELAW for help, as mining companies claim that new and expanded mining operations will be a “win-win.”

In reality, mineral development is often hazardous to communities and the toxic impacts can persist for decades, even centuries.

“If mining companies do not follow strict protocols, very large land areas can become effectively uninhabitable for a very long time. In particular, once acid mine drainage starts contaminating waterways, it’s very difficult and expensive to stop,” says Glenn Miller, ELAW Board Member and mining expert at the University of Nevada at Reno.

ELAW is working with partners around the globe to ensure that mining operations do not leave a toxic legacy. Mining companies often have deep pockets and many high paid lawyers, so defeating bad mining projects is a challenge.

Most countries require an environmental impact assessment (EIA) before giving the green light to

a new or expanded mining project. EIA processes provide a valuable opportunity for citizens to participate in decisions about mines. Unfortunately, project proponents often submit long, complex, EIA documents that are incomprehensible to communities.

Helping grassroots advocates and communities understand mining EIAs, identify flaws in mining project plans, and explore ways that mining companies can reduce public health hazards is at the heart of ELAW’s work protecting communities from toxic mines.

During his nearly 20 years at ELAW, Staff Scientist Mark Chernaik has reviewed countless EIAs. In 2008, he noticed that an old EIA for a bauxite mine in Russia bore a striking resemblance to an EIA he was reviewing for a proposed bauxite mine in India.

**“The EIA process gives citizens an opportunity to stop a bad mining project before it leaves the drawing board.”**

Mark Chernaik, ELAW Staff Scientist

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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.

EDITOR: MAGGIE KEENAN  
NEWSLETTER LAYOUT: ARIES CREATIVE  
PRINTED BY: CLANCEY PRINTING CO.  
USING: **SOY BASED INKS**  
**UNBLEACHED 100%**  
**POST-CONSUMER**  
**RECYCLED PAPER**

# Holding the Mining Industry Accountable

(CONTINUED) Indeed, proponents of the Indian project had copied the EIA that was prepared for the Russian project years earlier. Mark alerted ELAW partners and news of the “cut and paste” EIA was spread far and wide through India’s Wall Street Journal affiliate.

This year, ELAW scientists have worked with partners around the world to review EIAs and challenge flawed mining projects in India, Papua New Guinea, Panama, Ecuador, and Ghana. The following are some examples of our work.

## PAPUA NEW GUINEA: Keeping Nickel Mine Waste out of the Sea



**ELAW partners in Papua New Guinea are challenging their government’s decision to permit a Chinese mining company to dump millions of tons of nickel mining waste into Basamuk Bay, off the Rai coast. An Australian mining company is a minority stakeholder in the project. This practice, known as “deep sea tailings placement,” is banned in China, Australia, and elsewhere.**

PHOTO: Scott Waide & Bismark Ramu Group

Indigenous landowners along Papua New Guinea’s Rai coast are convinced that a project to dump nickel mine waste in Basamuk Bay will contaminate the bay and kill coral reefs and fish. Thousands of landowners have signed a petition opposing the project.

Earlier this year, PNG lawyer Tiffany Nonggorr filed a suit on behalf of several landowners. She faces a well-funded team representing the government and the Metallurgical Corporation of China (MCC), which has filed reams of documents and expert affidavits.

Armed with technical and legal support from ELAW and concerned regional scientists and lawyers, Tiffany successfully obtained an injunction temporarily halting discharge of mine waste into the sea.

This victory did not come easily. The Court blocked construction of the pipeline earlier in the year and the case was supposed to have gone to trial in September. After months of preparation, Tiffany learned on the eve of the trial that her clients were being threatened and intimidated. Out of fear for their safety, the plaintiffs withdrew from the case, leaving the court with no choice but to discontinue the proceedings.

Several landowners immediately stepped forward to challenge the waste disposal plan, despite

considerable personal risk, and in late October, the National Court issued a new injunction, stating: “The Defendant shall not, pending determination of the substantive proceedings, allow mine tailings or waste to be discharged into the sea through the deep sea tailings placement system or by any other means except by express order of the National Court or the Supreme Court.”

Community momentum continues to build against MCC’s mine waste disposal plan. More indigenous landowners have stepped forward to join the case, bringing the total number of plaintiffs to 76. The lead plaintiff has filed contempt charges against mining company officials for threatening and harassing his family and clan members in a desperate attempt to pressure them to withdraw from the case. Together, these brave landowners are taking a strong stand to protect the marine environment – an integral part of their culture and livelihoods.

Congratulations to the landowners, their attorney Tiffany Nonggorr, and Effrey Dademo (with Act Now! PNG). As this case moves forward, find updates on ELAW’s blog: <http://elawspotlight.wordpress.com>





**“There is no parallel accessible scientific support available to groups in India like ELAW.”**

Ritwick Dutta

## INDIA: David & Goliath Victory

The tribal people of the Niyamgiri Hills in eastern India won a David and Goliath battle protecting their ancestral lands from a London-based mining giant. In August, authorities in Delhi revoked permission for Vedanta Resources to mine bauxite from hills in Orissa State where the Dongria Kondh live as forest dwellers.

“The Dongria Kondh tribal community holds the Niyamgiri Hills sacred,” says Mark Chernaik, ELAW Staff Scientist. “If the project were approved, it would have meant an irreversible loss of the rich biodiversity of the Niyamgiri hills and a centuries-old way of life.”

Mark worked closely with Indian attorney Ritwick Dutta to review three EIAs for the proposed mine and challenge Vedanta’s shortsighted project.

Ritwick is an attorney at the Delhi-based EIA Resource and Response Centre. He has represented

petitioners before the Central Empowered Committee, the Supreme Court, the High Court and presently the National Environment Appellate Authority (NEAA).

Ritwick writes: *“The Vedanta case is surely a triumph of tribal people over corporate abuse . . . ELAW helped in critiquing and comparing the two versions of the EIA report prepared by the company which prompted the NEAA to order for the suspension of the Environment Clearance by the NEAA. There are many similar projects currently under adjudication where the detailed critique was done by ELAW. In most cases that we have taken up, the support of ELAW is invaluable.”*

## PANAMA: Protecting Rivers from Gold Mine Waste



Communities in Panama are concerned that the Molejon Gold Mine (75 miles west of Panama City) is contaminating rivers and destroying biodiversity. In August, community members in Colon Province filed a petition citing their concerns about an alleged mine tailings spill. ELAW scientists reviewed results of water quality testing conducted downstream from the mine and are helping community members pinpoint sources of contamination.

ELAW has worked with partners in Panama at the Centro de Incidencia Ambiental (CIAM) since 2008, to strengthen laws and protect communities from hazardous mining operations.

Mariana Méndez, an environmental engineer at CIAM, participated in an ELAW Fellowship in March, to build skills and tap scientific expertise. In October, CIAM attorney Joana Abrego (see page seven) visited ELAW and collaborated on CIAM’s work holding the mining industry accountable.

Meche Lu, ELAW Environmental Research Scientist, has provided CIAM and other grassroots organizations in Panama with information about health hazards associated with mining waste and best practices for monitoring water quality at mining sites.

ELAW’s *Guidebook for Evaluating Mining Project EIAs* is a critical resource for Mariana, Joana, and grassroots advocates around the world who are working to protect communities from polluting mining operations.

### Mining Guidebook, now available in three languages!

ELAW is pleased to announce that our *Guidebook for Evaluating Mining Project EIAs* is now available in English, French, and Spanish – for free, on our website ([www.elaw.org](http://www.elaw.org)).

The Guidebook helps grassroots advocates and communities understand mining EIAs, identify flaws in mining project plans, convince decision-makers to reject ill-conceived mining projects, and explore ways that proposed mining projects can be made socially and environmentally acceptable.

The Guidebook was produced in 2010 by a team of ELAW experts, including ELAW Director Glenn Miller, Director of the Graduate Program in Environmental Sciences and Health at the University of Nevada at Reno.

ELAW has helped partners around the world evaluate dozens of EIAs for proposed mining projects. The Guidebook consolidates what we have learned and provides many critical tools for communities seeking to make their voices heard about proposed mining projects.



# Strengthening the rule of law in Africa

## LIBERIA: Advancing Sustainable Forestry Policies

Exploitation of Liberia's tropical rainforests helped fuel 15 years of civil war. As part of the recovery effort, the government of Liberia has pledged to manage its natural resources more equitably. ELAW has worked with partners at Green Advocates, based in Monrovia, for years to strengthen the rule of law and ensure that Liberia's citizens have a voice in decisions about their nation's natural resources.

In July, ELAW sent two environmental advocates with expertise in sustainable logging practices and forest policy to Liberia, to work one-on-one with staff at Green Advocates. These ELAW Fellows were James Johnston, a Faculty Research Assistant at Oregon State University Institute for Natural Resources, and Daniel

Kruse, the Legal Director for Cascadia Wildlands.

Dan and James joined our Liberian partners to meet with staff of Liberia's Environmental Protection Agency and Forestry Development Authority to explore ways to strengthen and enforce laws protecting forests. They also attended a multi-stakeholder dialogue on pit sawing with leaders from the Liberia Chainsaw and Timber Dealers Union, and visited Kparnyah Town and Owensgrove to talk to community leaders affected by a large, latex rubber processing facility operated by Firestone Liberia. They also met with small-scale rubber farmers concerned about a proposed biomass power plant proposed by Buchanan Renewable Energy.

Tapping rubber. PHOTO: James Johnston



James wrote this report about his visit to the Firestone Plantation:

*Rubber is Liberia's biggest product, by some accounts amounting to almost 90% of Liberia's official revenue from exports. By far, the largest producer is Firestone Liberia, which leases one million acres of Liberia as a rubber plantation, equal to 4% of the country's territory or nearly 10% of the arable land. Since the plantation was established in the 1920s, there have been widespread allegations of forced labor, pollution and other human rights abuses.*

*Dan Kruse and I, accompanied by our hosts, Alfred Brownell*

*and Francis Colee from ELAW partner Green Advocates, visited several sites around Firestone Liberia, 30 miles southeast of the capital of Monrovia. Local residents told us that Firestone has been dumping raw waste from rubber manufacturing directly into the Farmington River that locals depend on for water. Many complain of rashes and birth defects as a result of using water from the river.*

*Green Advocates has played a leading role in calling attention to pollution by Firestone. In 2005, Green Advocates invited the press, lawmakers, government officials, and UN officials to an event along the riverbank. Community members gave visiting dignitaries a tour of the community and the river. In response, Firestone quickly arranged its own press event and declared 2005 to 2006 its "Environmentally Friendly Year!" Green Advocates is currently planning a class action lawsuit on behalf of local citizens to force Firestone to clean up its act. Alfred and Green Advocates see this sort of citizen legal action both as a way to protect people from pollution and strengthen Liberia's civil society.*



PHOTO: James Johnston



**“When you take a company to court,” Alfred told us,  
“you cause the country to believe in the spirit of the law.”**

## **GHANA: Sustainable Mining**



Patrick Freeze (in red tie) with CEPIL attorneys and villagers whose farms were taken over by a mining facility.

Gold has been mined in Ghana for 100 years, but villagers reap few benefits. ELAW has been working with partners at the Accra-based Center for Public Interest Law (CEPIL) since 2007 to protect communities and the environment from toxic mines.

In July, ELAW sent two environmental advocates with expertise in sustainable mining to work with partners at CEPIL.

These ELAW Fellows were Patrick Freeze, a Technical and Policy Intern at Great Basin Research Watch, and Mary Marrow, a Staff Attorney with Minnesota Center for Environmental Advocacy. Patrick and Mary helped review environmental impact assessments for proposed mining projects and provided critical information on best management practices and ways to minimize or prevent contamination of local waterways.



Murchison Falls National Park, Uganda

Patrick describes the challenges faced by local farmers when mining companies move in:

*Most of the mining projects in these impacted regions are in heavily forested and agriculturally rich areas. Cocoa, rubber trees, palm trees, and even coconuts are grown on vast tracts. When the mining companies compensate for the loss of a crop (at the lowest compensation amount possible) for only one year, is that fair when the life of a cocoa tree can produce from 50 to 60 years? It's not only a violation of basic human rights but can also be seen as a death sentence, as farming is a way of life here. It forces you to think about what the word "value" means. Gold is valuable and agriculture is valuable. But only one will keep you alive.*

Find Patrick's web log of his trip to Ghana at:  
<http://www.gbrw.org>

## **UGANDA: Oil Development in Parks**

Uganda's national parks and protected areas are not off-limits in the search for Big Oil. Current and proposed test wells are located inside Murchison Falls National Park – Uganda's largest national park. These sites are in oil blocks owned by U.K.-based Tullow Oil.

Murchison Falls National Park is teeming with wildlife, including lions, African buffaloes, elephants, leopards, and giraffes. The famous Murchison Falls is where the Nile River explodes through a narrow cleft in the Rift Valley escarpment, plunging into Lake Albert.

“Transparency is critical. Citizens need to know what agreements are being made with the oil companies,” says ELAW partner Kenneth Kakuru, Executive Director of Greenwatch. “The law only permits activities in national parks that benefit wildlife management. Therefore, Tullow Oil activities are illegal. Greenwatch is also in court over similar activity by Hima Cement, a subsidiary of a French company LaFarge that is mining limestone in Queen Elizabeth National Park.”

ELAW is working with Kenneth to review the environmental impact assessments of proposed oil activities, to ensure that Uganda does not fall victim to the oil curse.

*Tullow's operations in Uganda focus on the Albertine Graben in the west of the country, which is recognised as one of Africa's most important sites for the conservation of biodiversity. It is believed that the Albertine Graben contains more vertebrate species than any other region on the continent, as well as a large percentage of Africa's birds, mammals, reptiles and plant species.*  
From: [www.tulloil.com](http://www.tulloil.com)

## ELAW Fellows

ELAW has hosted more than 150 environmental professionals from around the world. ELAW Fellows are law students, young lawyers, experienced lawyers, and other professionals who help protect communities and the environment through law. Meet our current ELAW Fellows, Michael Zschiesche and Zhang Yonghua.



**Michael Zschiesche**  
BERLIN, GERMANY

### GERMANY: Real Steps in Climate Protection

Citizens in Germany have long had a limited voice in decisions about environmental matters, yet Germany is moving dynamically to adopt carbon-free energy sources. In 1999, Germany adopted the Renewable Energy Act, which stimulated the move to reduce Germany's carbon footprint.

Is public participation in climate matters important to moving us towards a more climate friendly society? This is the subject of my current research and the focus of my ELAW Fellowship.

Energy production is only one factor in protecting the climate, but it is the most important. In Germany, citizens now support subsidies for renewable energy. Old conflicts about environmental issues seem unimportant compared to the need for a future with less carbon emissions.

**Zhang Yonghua**  
SHENZHEN, CHINA

ELAW welcomes Zhang Yonghua, our Laurie Prosser/Xiaoli Jiang Fellow.

Yonghua is an environmental attorney in Shenzhen, China. He works pro bono at the Shenzhen Legal Assistance Center and has collaborated with ELAW partners at the Center for Legal Assistance to Pollution Victims, in Beijing. Yonghua received his LLM, with a focus on environmental law, from Northwest University of Political Science in Xi'an.

Yonghua is working closely with ELAW staff to explore laws regulating climate markets, and laws regulating mining and marine pollution, with an emphasis on oil spills. In addition to his work with ELAW staff, Yonghua is participating in the Intensive English Program at the University of Oregon American English Institute. Many thanks to AEI for providing Yonghua with a tuition-free scholarship.

Surveys show that people are interested in saying what they want, rather than fighting against what they don't want. It is no coincidence that in Germany renewable industries are growing rapidly. People are saying what they want, by creating new companies. In Germany, this may be the most sustainable way to move things in the right direction.

But what does this mean for public participation? It is hard to measure the impacts of citizens participating in decisions about the environment. Is public participation an old fashioned model to improve the environment? If so, what are the alternatives?

I am here in the U.S. for six months to research these questions and shed light on the most effective ways to involve the public in a move towards zero emissions.

*Attorney Michael Zschiesche arrived in July for a six-month ELAW Fellowship. Michael works for the Independent Institute for Environmental Concerns (UfU) in Berlin. He is at ELAW to conduct and share research on best practices to advance renewable energy. Michael has collaborated with ELAW since 1993.*



**“Old conflicts about environmental issues seem unimportant compared to the need for a future with less carbon emissions.”**

Michael Zschiesche



## October Visitors

*Michael and Yonghua's fellowships coincided with visits of ELAW partners from China, India, the Philippines, Uganda, Ukraine and Panama. These October visitors traveled to Eugene for a climate workshop at the University of Oregon.*



### **Zhang Jingjing, CHINA**

Jingjing is the Deputy Country Director for the Public Interest Law Institute's China program, based in Beijing. Jingjing became known as the "Erin Brockovich of China" after winning compensation for over 1,700 villagers in a collective lawsuit against a heavily-polluting chemical plant. She is a Yale World Fellow and has collaborated with ELAW since 2006.



### **M.C. Mehta, INDIA**

Goldman Prize winner M.C. Mehta has collaborated with ELAW for nearly 20 years. He has brought more than 100 cases before the Supreme Court of India, seeking clean air, clean water, and a healthy environment. M.C. provides training to judges and the next generation of Indian environmentalists at his Eco-Ashram in the foothills of the Himalayas.



### **Kenneth Kakuru, UGANDA**

The oil industry is prospecting for oil in Uganda's largest national park. Kenneth is making sure that citizens have access to information, to ensure that communities can weigh in on agreements being made between oil companies and the government. Kenneth is the Executive Director of Greenwatch, based in Kampala. He has collaborated with ELAW since 2000. (See page five: "Uganda: Oil Development in Parks.")



### **Tony Oposa, PHILIPPINES**

Tony is best known for winning a 1993 decision in the Philippine Supreme Court that upheld the principle of "intergenerational equity," affirming that the interests of future generations could be protected in court. Many courts around the world have now adopted this principle. Tony has collaborated with ELAW to protect the environment for future generations since 1993.



### **Joana Abrego, PANAMA**

Joana is an attorney at the Centro de Incidencia Ambiental (CIAM). She is working to strengthen Panama's environmental impact assessment (EIA) system, to help citizens participate in environmental decisionmaking and prevent environmental degradation. She has collaborated with ELAW since 2009. (See page three: "Panama: Protecting Rivers From Gold Mine Waste.")



### **Maryana Bulgakova, UKRAINE**

Maryana is an attorney at Environment People Law, in Lviv. She is the leading climate change litigator in Ukraine. She is an active member of Ukraine's Council of the Climate Change Working Group and represents civil society at conferences of the parties to the United Nations Framework Convention on Climate Change. She has collaborated with ELAW since 2007.



# LAW

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## “The industry talks about using the best standards, but what are the best standards?”

**Reinford Mwangonde**, Citizens for Justice, Malawi

ELAW Staff Scientist Mark Chernaik is providing Reinford with the scientific information he needs to ensure that an Australian company proposing to mine for uranium in Kanyika, Malawi, will adhere to internationally accepted standards.

### THINK GLOBALLY. ACT GLOBALLY.

Please visit [www.elaw.org/give](http://www.elaw.org/give) to make a secure, online donation.

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