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An Environmental Act of Peace in Conflict-Torn Ukraine

By Heidi Weiskel and Alla Voytsihovska

In the zone

What happens when nearly half of the 115 registered coal mines operating in a country are suddenly surrounded by tanks, soldiers, and artillery fire? Two things: They stop operating and their operators leave. Both have significant consequences for the environment in eastern Ukraine.

Open-pit coal mines are kept dry during operation. If they are abandoned and not closed down properly, the pits begin to fill with groundwater and rainwater. This water can become dangerously acidic and release toxic metals into the environment. This water may also lead to the walls of abandoned mines collapsing, which can release tons of toxic mining sediment into waterways. Eastern Ukraine is dotted with 1,260 piles of mining overburden rock, which can leach acid drainage into groundwater.

When mine operators in Ukraine's war zone are pushed out of legally operating mines, they turn to unauthorized mines. Illegal mines lack environmental and human safety regulations for workers who are forced to withstand extreme heat and descend up to one mile below the earth's surface.

Ukraine's current political and military crisis is taking a huge human toll. It is also wreaking havoc on the environment.

Before the military conflict

The environment in eastern Ukraine was suffering long before the recent outbreak of hostilities. Donetsk and Luhansk, the industrial heart of Ukraine, are plagued by air and water pollution from iron and steel works in Mariupol, Yenakiieve, Makiivka, Avdeevki, coupled with many coke plant operations and 200 years of coal mining. Mineralized mine water and more than one million tons of salt have been dumped into the region's waterways. The Kalmius Kryinka, Bakhmut and Kalchik Rivers are highly contaminated and many water treatment plants are obsolete.

Assessing the environmental impacts of military conflict

Artillery shelling in eastern Ukraine has resulted in fires at coke plants in Avdeyevka and Yasinovskogo, an oil refinery in Lisichansk, a chemical plant in Stiro, and up to 22 electricity substations in Tochmash and beyond. Environment-People-Law (EPL) has documented these fires and how they have incapacitated the electricity grid, volatilized extremely dangerous chemicals, jeopardized both fertile farming land and protected species, and destroyed forests. The conflict has resulted in the discharge of untreated industrial and domestic wastewater, damaged drinking water systems, destroyed highways, and interrupted collection and removal of solid waste. It has forced thousands of refugees to leave their homes.

"The gravity of the military conflict in eastern Ukraine has compelled ELAW and EPL to work together to document and publicize the region's environmental and human rights violations with an aim to restoring the environment and protecting the health of vulnerable communities and species." Heidi Weiskel

The way forward

Ukraine needs help from the international community to restore its environment and natural resources. A first step is to inventory the damage done, both to infrastructure and to the natural environment, including birds, freshwater fish, and animals that once



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An Environmental Act (CONTINUED)

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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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migrated through the area. Once that assessment has been completed, the peaceful work of environmental rehabilitation can begin.

The military conflict is taking its toll on the environment, but conservation measures, increased efficiency, and better environmental safeguards can help Ukraine reclaim its ecosystems and natural beauty while achieving social justice for vulnerable communities.

The public water supply can be reconnected with pipes that do not leak, projects can be subjected to appropriate environmental oversight, and migration corridors can be set aside for internationally protected species, such as the Eastern Imperial Eagle.

It is the right of Ukrainians, and citizens of all countries, to live in a healthy environment with fresh water, clean air, abundant food, open green spaces, and diverse species.

EPL and ELAW look forward to working together to help Ukraine move beyond the crisis.

Heidi Weiskel, PhD, is Staff Scientist at the Environmental Law Alliance Worldwide. Professor Alla Voytsihovska is Staff Scientist at Environment-People-Law's Lviv, Ukraine, office. Heidi and Alla met in September 2014 at EPL's international symposium: "Human Rights and the Environment in a New Ukraine."



New ELAW Publications

Holding Corporations Accountable for Damaging the Climate

Environmental Law Alliance Worldwide 2014



A new ELAW report concludes that courts in several countries

are poised to pursue climate justice. "Some people are profiting enormously from damaging the climate, while others will bear the costs of that climate damage," says Jennifer Gleason, ELAW Staff Attorney. Jen led a research team of ELAW partners from the United States, India, Ecuador, Brazil, Mexico, and Kenya to identify jurisdictions around the world where strong cases could be filed to hold corporations accountable for damaging the climate. Many thanks to the Wallace Global Fund for making this research possible. Find the report on ELAW's website.

Mining companies have set their sights on Ecuador, where

mining threatens communities and ecosystems. ELAW Staff Scientist Meche Lu and former ECOLEX Staff Attorney Gabriela Leon published a handbook to help citizens understand the impacts of mining operations and how communities can make their voices heard: **Environmental and Social Impacts of Open Pit Metal Mining and Ecuador's Regulatory Framework**. Many thanks to the Swift Foundation for making this work possible. Find the handbook on ELAW's website.



From Hong Kong to Eugene

A Conversation with Anya Petersohn, ELAW Volunteer

By Sam Orwig

In October, Anya Petersohn, 17, boarded a plane from Hong Kong to the U.S. while pro-democracy protests paralyzed much of her home city's financial district. Anya left this historic scene of civil engagement to begin her journey to Eugene, where she will be spending three months working as an intern with the Environmental Law Alliance Worldwide. As the number of protesters in Hong Kong swells, Anya is fighting for human rights on a different front, as an advocate for sound environmental policy and a sustainable future.

Growing up in Hong Kong, Anya loved the outdoors. Treks in Nepal and Tanzania prompted her to reflect on the severe air and water pollution in Hong Kong. She wanted to combat pollution locally and considered working for one of the many environmental consultancies based in Hong Kong, but found herself lost in the bureaucracy of large top-down firms.

This fall, Anya will be a part of a much smaller, yet effective, group of environmental advocates at ELAW. She notes, "ELAW's unique bottom-up approach, focused on building the capacity of environmental lawyers across the globe, is attractive to me. Giving others the tools to affect their own change is a more personable and sustainable approach."

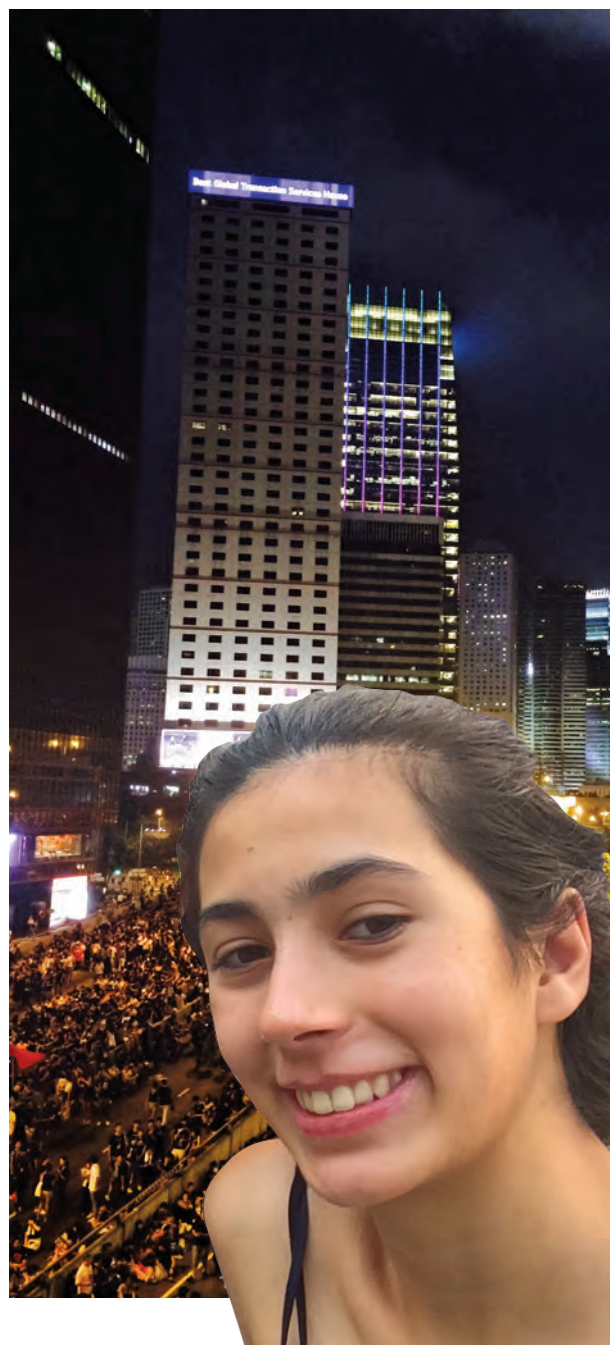
Anya was admitted to Stanford University but will defer until next fall to make time to explore her passion for international development and applied geography while gaining hands-on experience at ELAW.

Hitting the ground running, Anya has already begun work on ELAW's "Defend the Defenders" program, an initiative that protects environmental defenders from harassment, lawsuits, and in some cases, violence. Anya says, "Standing up to powerful interests can be risky. It is important that the safety of environmental lawyers is not an afterthought and that they feel secure throughout the process. An increase in safety will encourage more lawyers to take on the challenge."

Be it protecting ELAW's partners from backlash or peacefully protesting threats to democracy in Hong Kong, Anya believes that change occurs through the mobilization of people, a sentiment welcomed by ELAW.

For more information about the Defend the Defenders program and how you can help, please contact Lori Maddox, ELAW Associate Director, lori@elaw.org. For more information on becoming an ELAW Volunteer, visit ELAW's website (www.elaw.org) and click on "What You Can Do."

Sam Orwig is an ELAW Volunteer. He is a recent graduate of the University of Oregon where he majored in international studies and German. He received a 2014-2015 Baden-Württemberg Scholarship for study at the University of Konstanz, in Germany.



Anya Petersohn

Can East Africa Avoid

International oil and mining companies have descended on East Africa. ELAW is working with partners in Kenya, Uganda, and Tanzania to ensure that the quest for profit from oil, gas, and minerals does not devastate the environment and impoverish local communities.

"Communities must be involved in decisions and share in the benefits," says Jennifer Gleason, ELAW Staff Attorney. "Experience from the Niger Delta makes it clear what happens when communities are out of the loop." Jennifer manages ELAW's Africa program and teaches energy law at the University of Oregon School of Law.

ELAW provides the legal and scientific information that partners in East Africa need to avoid the "resource curse."

ELAW Staff Attorneys help partners understand natural resource extraction contracts, analyze draft laws, find laws or cases from other countries that

will bolster a local lawyer's legal arguments, make connections to lawyers doing similar work in other countries, and challenge unsustainable projects.

ELAW Staff Scientists review environmental impact assessments (EIAs); design monitoring programs; explain results of air, water and soil quality testing; review scientific documents presented to court; and describe ways to make projects more sustainable.

The key to ELAW's strategy is identifying strong lawyers who are committed to working with vulnerable communities in their home countries. Three of these lawyers -- Collins Odote and Benson Ochieng from Kenya, and Rugemeleza Nshala from Tanzania -- have worked with ELAW for years. Each presented their expertise on the extractives sector at the Law Society of Kenya's 2014 Annual Conference in September. Collins writes a weekly column on the extractives sector for Kenya's "Business Daily" newspaper. The following is a recent column.



Collins Odote
Chairman of the Board,
Institute for Law and
Environmental Governance

We stand on the tipping point of either using the discoveries in Turkana, Mui Basin, Lamu, Kwale and other parts of the country to join the leagues of such countries like Norway and Botswana, whose economies have benefitted hugely from the extractive industry, or follow in the footsteps of numerous countries where the extractive sector has only brought misery and suffering to the citizenry, and where benefits have been enjoyed by a few elites and political leaders.

the Resource Curse?

Kenya need not suffer oil, minerals curse

By Collins Odote As re-printed from Business Daily, September 21, 2014

In March 2012, Kenya officially announced that oil had been found in Ngamia 1 block in Turkana by British company Tullow Oil. While assuring the citizenry of the potential of the oil find, both the President and PM cautioned on the need to ensure that the resource benefits all Kenyans.

They also cautioned on the need to ensure the oil did not turn into the proverbial resource curse that has turned many promising states into banana republics.

In *The Trouble with Nigeria*, writer Chinua Achebe warns of the pitfalls of the extractive industry. Whether Kenya follows the path of countries where the extractive industry has been a source of conflict and poverty and led to increased poverty, or where it has resulted in greater prosperity and expansion of the economy will depend entirely on the measures the country takes.

The solution for Kenya is to develop robust laws and policies, and credible institutions. We already have a robust constitutional dispensation which can enable the country realise the benefits from oil and minerals.

First, the Constitution clarifies that oil and mineral resources belong to all Kenyans irrespective of which part of the country they are discovered. Effective benefit sharing arrangements will help ensure that while the resources are national, their proceeds are shared equitably through considerations of linkages to land rights.

The devolved governance arrangement also guards against past practices where decisions on the extraction of such resources were either concentrated in the capital city or inequitably spread across the country.

Leaders will need to put in place adequate laws, policies and regulator regimes to govern the extractive sector. The Mining Act of 1940 and the Petroleum (Exploration and Production) Act of 1986 are woefully inadequate.

The government must fast-track the ongoing process of development and enactment of modern laws and policies

for the sector, including the enactment of the Mining Bill, the Petroleum (Exploration and Production) Bill, the Sovereign Wealth Fund law and revisions to both the energy law and policy.

But laws alone are not enough. Practical action is also required in other fronts. Leaders have a responsibility to manage citizens' expectations. Despite the discoveries, the extractive industry still accounts for less than one per cent of the country's GDP with the highest projections being nine per cent.

Government and citizens must, while supporting the industry, also pay attention to other sectors and ensure they are given adequate support, too. Only then will livelihoods be improved and the country avoid the Dutch disease experienced by countries that relied too much on the extractive sector and ended up killing their more traditional industries.

We stand on the tipping point of either using the discoveries in Turkana, Mui Basin, Lamu, Kwale and other parts of the country to join the leagues of such countries like Norway and Botswana, whose economies have benefitted hugely from the extractive industry, or follow in the footsteps of numerous countries where the extractive sector has only brought misery and suffering to the citizenry, and where benefits have been enjoyed by a few elites and political leaders.

The choice is ours.

ELAW partner Collins Odote is the Chairman of the Board of the Institute for Law and Environmental Governance, based in Nairobi. He writes a weekly column for Kenya's "Business Daily" on issues tied to the extractives industry. Collins is an advocate of the High Court of Kenya having received his Bachelor of Laws (LL.B), Master of Laws (LL.M) and Doctorate (Ph.D) in Law from the University of Nairobi, where he also serves as a lecturer at its Centre for Advanced Studies in Environmental Law and Policy.

ELAW Fellow Gonca Yilmaz

Public Interest Environmental Law in Turkey

ELAW Fellow Gonca Yilmaz is here in Eugene gaining skills that will help her protect her native Turkey. Gonca is this year's Laurie Prosser/Xiaoli Jiang Fellow. Gonca co-founded the Denge Ecological Association and recently joined a small group of public interest-minded lawyers who have established the Çevre Hukuku Dernegi (Environmental Law Association or ÇHD). This new organization is representing citizens in environmental battles and plans to grow the corps of public interest lawyers in Turkey and reform Turkey's environmental laws.

"Turkey is home to valuable biological and cultural diversity, but this diversity is vulnerable because the legal infrastructure that should protect it is extremely weak, and development pressure is strong," says Gonca. "Turkey does not have statutes designed to protect air, wildlife, or water – or to address the threat of climate change."

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Gonca Yilmaz
ELAW Fellow

Gonca and her colleagues are working to protect Igneada, a small town on the Black Sea in Turkey's Kırklareli Province, from plans to build a coal-fired power plant. The proposed power plant threatens the area's unique ecosystems, including oak forests and one of the few remaining floodplain forests in all of Europe, home to many different bird species. The area is home to the "longoz" tree, only found in two other regions: the Amazon and the Congo. Roads were built last year to improve access to the project site and the government is now considering building a nuclear power plant.

During her Fellowship, Gonca is collaborating with ELAW staff to build the capacity of ÇHD to assist the residents of Igneada, and seek support for efforts to reform Turkey's environmental laws, develop environmental law curricula for Turkey's law schools, and provide support to citizens facing environmental and human rights challenges.

ELAW Fellowships have proven very effective and ELAW has hosted more than 150 environmental professionals from around the world. If you are interested in supporting the ELAW Fellows Program or getting involved with the ELAW Host Family Program, please contact Maggie Keenan, ELAW Fellows Program Coordinator (maggie@elaw.org).



Berlin 2014: UfU Hosts ELAW Annual Meeting



More than 70 ELAW partners from 38 countries converged in Berlin by train and plane for the 2014 ELAW Annual International Meeting, September 16 – 19. The Independent Institute for Environmental Concerns (UfU),

ELAW, and the Heinrich Böll Foundation co-hosted this year's Meeting and an accompanying conference: "Legal Remedies for Resource Extraction." The rich agenda featured ELAW partners from around the world sharing strategies, building skills, and replicating victories. ELAW partners worked together to meet critical environmental challenges and build the human links that make the ELAW network strong.



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ELAW Digest (edigest.elaw.org)

An Annual Compilation of Important Environmental Law Decisions

Grassroots advocates around the world now have online access to key court decisions to help them build strong cases to protect the rights of local communities. ELAW Staff Attorney Liz Mitchell worked closely with ELAW Web Designer David Pugh to develop ELAW Digest, an annual compilation of precedent-setting environmental and human rights cases that can be easily accessed -- even on mobile devices.

"Courts and tribunals in every part of the world are issuing progressive decisions, but there has been no reliable way for lawyers to learn about these cases," says Liz, who reached out to ELAW partners to identify

the most important environmental law decisions published in the last year. Each year, we will continue to add new decisions to ELAW Digest, building a collection that will benefit advocates who need to know about the latest developments in environmental and human rights law.

Many thanks to the Philip Stoddard Brown and Adele Smith Brown Foundation for enabling us to create this valuable public resource that will help advocates spark new ideas and replicate environmental victories around the world.

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ELAW friendships go global. Anne Williams (center) met Manda Urantulkhuur (left) in Eugene during her ELAW Fellowship and recently visited Manda and her mom in Mongolia. One more way ELAW is connecting communities across borders.

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