



ELAW

WINTER 2018

advocate

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Connecting Communities
Protecting the Planet

Protecting the Climate, Advancing Climate Justice

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"The core purpose of legal systems is to secure justice."

Bern Johnson
ELAW Executive Director

Hurricanes Harvey, Irma, Maria, and Ophelia pummeled Houston, the Caribbean, Florida, and Ireland, killing nearly 300 and causing widespread damage. In October, wildfires exploded across northern California, killing at least 17 and destroying thousands of homes. In India, floods killed thousands in August and extreme heat waves killed thousands more. Meanwhile, South Africa is facing a multi-year drought. All over the world, people are feeling the impacts of the changing climate.

The Environmental Law Alliance Worldwide is working with grassroots advocates around the world to protect the climate and advance climate justice. We are addressing the roots of the problem: challenging polluting coal-fired power plants, advancing clean energy policies, encouraging governments to take action, and holding corporations liable for climate damages.

ELAW Executive Director Bern Johnson said: "The core purpose of legal systems is to secure justice. The damage we are doing to the climate is a massive injustice, so legal systems should engage to protect the climate and find remedies."

The following pages feature highlights of our work to protect the climate, pursue climate justice, and promote the transition to a sustainable energy future.

Protecting the Climate, Advancing Climate Justice

ELAW U.S. Staff

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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 the ELAW U.S. and does not represent the views of ELAW partners around the world.

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Reducing GHG Emissions in India & Protecting Forests

India stands out as a major greenhouse gas (GHG) emitter whose emissions are rising rather than falling, according to the PBL Netherlands Environmental Assessment Agency. ELAW partner Rahul Choudhary filed a case asking India's National Green Tribunal to require the Ministry of Environment, Forest & Climate Change to develop a plan "with priority actions aimed at reducing GHG emissions by transitioning away from the development and use of fossil fuels; protecting forests, peatlands, grasslands, soil, mangroves, and other natural resources that store carbon; and engaging in massive reforestation and other methods of natural carbon sequestration such as improved agricultural and forestry practices."

ELAW Staff Scientist Dr. Mark Chernaik submitted an affidavit addressing key scientific issues, and ELAW Staff Attorney Jennifer Gleason helped develop legal arguments, including one based on India's commitments under the Paris Agreement.

At a recent hearing, the Tribunal asked the Ministry about considering the impact on climate change of issuing environment and forest clearances. The Ministry is expected to file an affidavit about this issue before the next hearing. ELAW stands ready to support our partners in India as this case advances.



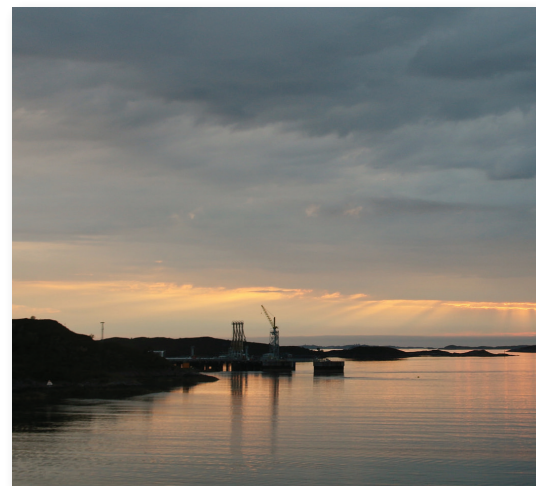
A coal-fired power plant in Chhattisgarh, India. PHOTO: Shweta Narayan

Bringing Global Precedents to U.S. Courts

In September, ELAW partnered with the Center for International Environmental Law (CIEL) to submit a brief in support of a case filed in the U.S. Federal Court by Our Children's Trust (OCT) on behalf of 21 youth impacted by climate change. The brief opposes the Trump administration's efforts to have the

case dismissed before trial. The brief describes key international laws and foreign jurisprudence favoring the right to a climate system capable of supporting human life. We are waiting for the Ninth Circuit Court of Appeals to rule on the government's effort to dismiss the case.

Challenging Polluting Oil & Gas Operations in Norway



Oil and gas platforms in the North Sea oil fields of Norway. PHOTO: Øyvind Knoph Askeland, Wikimedia Commons

Greenpeace Nordic Association and Natur og Ungdom (Nature & Youth) are asking the District Court in Oslo, Norway, to cancel plans to explore for oil in the Arctic. They argue that the government did not adequately consider the climate impacts of the Licensing Decision and how those impacts will infringe the fundamental constitutional right of every person, including future generations, to a healthy environment, including a livable climate.

ELAW submitted a brief to support the plaintiffs' arguments. Through the brief, ELAW shares with the Court important jurisprudence from foreign courts and tribunals that have ruled on issues similar to those raised by the plaintiffs. The brief also highlights important deficiencies in the information provided to the decision makers as part of the environmental analysis that formed the basis for the Licensing Decision. The trial began in mid-November, and we await developments.

Protecting the Climate in the Philippines

ELAW submitted a brief to the Philippines' Commission on Human Rights in November 2016 to help the Commission in its investigation of potential violations of Filipinos' human rights related to climate change.

In response to a petition filed by super typhoon Yolanda survivors and others – including Greenpeace Southeast Asia – the Commission opened an investigation into the human rights impacts of climate change and ocean acidification, and the role of 47 named fossil fuel and cement producers.

ELAW's submission supports the Commission's authority to investigate potential human rights violations suffered by Filipinos and grant relief to those individuals.

The submission states: "We commend the Commission for opening this important investigation into the potential human rights violations suffered by Filipinos who have been impacted by the changing climate and ocean acidification. We urge you to use your full powers of investigation and your broad discretion in granting relief."

The Philippines' Commission on Human Rights is moving ahead with the investigation, and we look forward to hearing more.



Top Right: PHOTO: Roy LaGarde, Greenpeace
Bottom Right: PHOTO: Vincent Go, Greenpeace

Climate Justice for Ukraine

Every year, ELAW partners at Environment People Law (EPL) in Ukraine travel to the Carpathian Mountains to conduct a summer school to help promising young advocates hone skills to protect communities and the environment. This year's summer school focused on protecting the climate.

"Climate change presents one of the most serious challenges to human civilization," says Olena Kravchenko, EPL Executive Director. "It is our priority issue."

Killian Doherty, ELAW Law Associate, traveled to the small village of Yablunytysya in the Ivano-Frankivsk region for this year's summer school. The students came from all over Ukraine. Killian provided legal expertise and success stories from ELAW's work around the world and presented on domestic climate change litigation in Australia, Colombia, Germany, India, the Netherlands, Pakistan, South Africa, and the U.S.

EPL is strengthening laws to protect the climate in Ukraine. EPL collaborates with Ukraine's Climate Working Group and participates in international climate change negotiations.

"EPL's work to strengthen the rule of law in Ukraine is truly impressive," says Killian. "The EPL team works tirelessly to improve and enforce the law and to protect the climate."



Coal-fired power plant Burshtyn TES, Ivano-Frankivsk Oblast, Ukraine. PHOTO: Raimond Spekking, Wikimedia Commons

"Climate change presents one of the most serious challenges to human civilization. It is our priority issue."

Olena Kravchenko
EPL Executive Director

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Protecting the Climate, Advancing Climate Justice

“Approximately 17 million people will need to move before the end of the century, due to sea level rise.”

Dr. Heidi Weiskel
ELAW Staff Scientist



Aquaculture ponds for whiteleg shrimp (*Litopenaeus vannamei*) cover the landscape north of Nha Trang, Vietnam. By the end of the century, these ponds could be inundated by sea level rise.

PHOTO: Heidi Weiskel, ELAW.

The Impact of Climate Change on Vietnam

Coastal communities in Vietnam are concerned about sea level rise and the impacts of a changing climate. In September, ELAW partners at the Berlin-based Independent Institute for Environmental Issues (UfU) held the first “climate change school” in Hue, Vietnam, for activists, academics, and NGO leaders. ELAW Staff Scientist Dr. Heidi Weiskel shared her expertise in a presentation titled: “Coastal Climate Change: sea level rise, acidification, storminess, and the consequences for Vietnam.”

“Vietnam has two massive river deltas – the Red in the North and the Mekong in the South,” says Heidi. “Approximately 17 million people will need to move before the end of the century, due to sea level rise. I spoke about what future ecological conditions might look like along the coast, and the need to ensure an organized and just retreat from the coast.”

While in Vietnam, Heidi traveled to the coastal city of Nha Trang, home to a growing shrimp farm industry. She toured small-scale shrimp farms to learn about their environmental impacts, and then shared her findings with ELAW partners in Mexico and Morocco working to protect fragile coasts from bad aquaculture projects.

At ELAW, we are excited to see a growing number of lawyers calling on legal institutions to secure climate justice and protect the climate. Courts around the world are recognizing that damaging the climate is a massive injustice, and courts should play a role in remedying this injustice.



www.elaw.org/climate

The damage that humans are doing to the global climate may be one of the gravest injustices of all time. Some people are profiting enormously from damaging the climate, while others are bearing the costs. Many who will suffer the most are contributing almost nothing to the damage. Courts around the world are stepping up to address climate injustice and pushing governments to protect threatened communities and the environment.

Eleven years ago, the United States Supreme Court recognized: “The harms associated with climate change are serious and well recognized.” *Massachusetts v. EPA* (2007).

More recently a Pakistani court urged: “From Environmental Justice . . . we need to move to Climate Change Justice.” *Asghar Leghari v. Federation of Pakistan* (2015).

Courts around the world are considering a growing number of climate cases. Citizens and organizations are turning to judicial systems to protect the rights of those harmed by the changing

climate; require governments to take bolder actions to stop harmful emissions; urge governments to help communities adapt; evaluate climate impacts before approving projects; ensure governments keep international commitments to reduce GHG emissions; hold corporations accountable for damaging the climate; and more.

Partners around the world have called on ELAW to create a digital resource to help them learn about legal theories under which cases have been filed and provide easy access to holdings and statements from courts around the world that will help advance new cases.

ELAW recently launched a Climate Litigation Website, which includes a primer for lawyers new to climate litigation. We invite you to preview this new tool:

www.elaw.org/climate

Saying No to Coal in Jamaica

A proposed 1000MW coal-fired power plant in Jamaica was canceled in November! It would have been the first coal-fired power plant in Jamaica and would have locked Jamaica into decades of burning coal, polluting the air and water, and damaging the climate.

Jamaica's Transport and Mining Minister recently announced that the proposed Jiquan Iron & Steel Company Limited aluminum refinery in Nail, St. Elizabeth, will run on Liquefied Natural Gas (LNG) instead of coal.

ELAW helped partners at the Jamaica Environment Trust (JET) speak out against the proposed coal plant due to its effects on human health and the environment. JET's #SayNoToCoalJA campaign educated Jamaicans about the impacts of coal. More than 20,000 people signed a JET-led petition calling on the government of Jamaica to deny the proposal for the coal plant and continue the transition towards renewables, including LNG as a transitional fuel.



ELAW's science team worked with JET and provided information about the impacts of burning coal on local ecosystems and the climate. We also worked with JET on a public fact sheet, which JET used to educate citizens about the deadly impacts of coal.

Inside ELAW



Welcome Alejandra!

In August, we bid farewell to ELAW attorney Pedro León Gutiérrez who is now working at the Independent Consultation and Investigation Mechanism (MICI) of the Inter-American Development Bank in Washington, D.C.

We are pleased to introduce the newest member of our legal team, **Alejandra Serrano Pavón**, (left). Alejandra is the former director of the Southeast office of Centro Mexicano de Derecho Ambiental (CEMDA) in Cancún. CEMDA protects the environment on behalf of communities and NGOs throughout Mexico. Alejandra received her law degree from the Panamericana University, in Mexico City. She has advocated on behalf of communities for more than 17 years.



ELAW Fellows from Ukraine and Mexico

Kateryna Norenko from Ukraine (on right) and **David Linares** from Mexico were at ELAW for 10 weeks this fall. Kateryna is an environmental scientist at the Kyiv office of Environment People Law and David is an attorney in the Southeast office of Centro Mexicano de Derecho Ambiental (CEMDA), based in Cancún.

Kateryna worked with ELAW Staff Attorneys and Staff Scientists to strengthen skills to defend Ukraine's forests and protected areas, and research the impact of pesticides. She joined ELAW Staff Scientist Dr. Mark Cherniak in an ELAW Global Community Conversation: "Tackling Pesticides in Ukraine and Around the World." Thanks to Mountain Rose Herbs for sponsoring ELAW's 2017 Global Community Conversation series!

David worked with ELAW staff to protect the Mesoamerican Reef and the coast of Quintana Roo from desalination plants and other threats to coastal ecosystems.

Kateryna and David were Director's Distinction Scholars at the University of Oregon's American English Institute, where they completed the Intensive English Program. Many thanks to AEI!

And thanks to the Trust for Mutual Understanding for supporting Kateryna's Fellowship and to Roger de Freitas for making David's Fellowship possible.



Walking the Walk

Thanks to a generous donation from the University of Oregon's Solarize U program, ELAW U.S. has reduced its carbon footprint through solar power with a 3.5kW solar array installed on the roof of our 104-year old Eugene office.

We are committed to reducing our carbon footprint and taking responsibility for our greenhouse gas emissions. Each year, ELAW U.S. calculates its operating carbon emissions and purchases high quality carbon offsets to ensure that ELAW U.S. is a carbon neutral office.



ELAW is certified by BRING's REthink Business program, meeting sustainability guidelines for reducing waste and conserving resources in the workplace.



Thank you 2017 ELAW Volunteers!

Volunteers and interns help ELAW provide the legal and scientific tools partners need. We appreciate the people who contribute their time and expertise to support grassroots advocates working around the world to build a sustainable, just future.

Tom Allen • Kabitanjali Amatya • Cecelia Barajas • Elizabeth Bezark • John Brown • Martine Coguiec Kay Crider • Peggy Dame • Laoni Davis • Sylvie Delpy Pope • Giuliana Del Guercio • Alexander Erwig • Crystal Flores Michael Fuller • Jackson Garcia • Quincy Gill • Paige Hahn • Ellen Hartley • Jessica Hetzel • Dana Hunter • Peter Johnson Aviva Kaye-Diamond • Ginnie Lo • Kayla Lindgren • Erica Lyon • Ashley Lyons • Sasha Marlan-Librett • Renata Massion Jean Meyer-Fero • Paul Nicholson • Ernie Niemi • Kari Offerdal • Nancy Pierce • Dylan Plummer • Claire Reid Kiss Gina Rosario • Che Ruth-Cheff • Carmen Saab • Clarissa Sprague • Laura Stentz • Jack Tomasik

Many thanks to the following individuals for lending their expertise as members of the ELAW U.S. Board of Directors: Michael Axline • John Bonine • Elaine Chang • David Hunter • William Jaeger • Glenn Miller • Cleven Mmari Jim Offel • Scott Pope • Amy Shannon • Kay Treakle • Mick Westrick

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Give the Gift of a Healthy Environment

This holiday season, support ELAW by making a contribution in honor or memory of a friend or family member. Your thoughtful, tax-deductible gift supports ELAW's work helping communities speak out for clean air, clean water, and a healthy planet.

For more information, visit www.elaw.org/give or contact ELAW Community Liaison Krista Shennum, krista@elaw.org.



THINK GLOBALLY. ACT GLOBALLY.

Charity Navigator and **GuideStar** give ELAW their highest rating for fiscal management, accountability, and transparency. To support our high impact work defending the environment and human rights in communities around the world visit www.elaw.org/give to make a secure, online gift. Call Krista Shennum at 541-687-8454 x105 for more ways you can help ELAW protect the planet.