

**ELAW**

SUMMER 2015

advocateConnecting Communities
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Cleaning up Polluted Rivers

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The Motagua River, Guatemala. PHOTO: Meche Lu

Water pollution is on the rise globally. According to the U.N., more than 80% of sewage in developing countries is discharged untreated into waterways; and heavily polluting industries – such as leather and chemicals – are seeking to set up shop in emerging economies.

ELAW partners in India, Mexico, Guatemala, Peru, and around the world are working with ELAW to strengthen and enforce laws that protect waterways and end polluting practices. A few highlights:

The Ganges

For 30 years, ELAW partners in **India**, led by the pioneering Goldman Prize winner M.C. Mehta, have fought to clean up the Ganges River, which has contamination that far exceeds World Health Organization standards.

A case that began in 2013 when ELAW partners Rahul Choudhary and Ritwick Dutta filed a suit in the National Green Tribunal (NGT) against a single polluter in the town of Simbhaoli has mushroomed into a case against approximately 1,000 industrial polluters along the Ganges River in five states.

Last fall, the Supreme Court gave the NGT exclusive jurisdiction to clean up the Ganges, and the NGT responded by sending teams of inspectors to investigate each polluting industry.

ELAW Staff Scientist Mark Chernaik is reviewing inspection reports and helping partners identify which polluters are violating the law and harming the Ganges.

This approach is yielding results: More than 60 industries that had been operating without any wastewater pollution controls, including dozens of tanneries in the notorious Jajmau industrial district of Kanpur, have been closed.

The Motagua

In **Guatemala**, ELAW is working with the Environmental and Water Law Alliance (ADA2) to raise awareness about pollution in the Motagua River, and engage citizens and government authorities in conservation strategies.

"Tons of domestic and industrial waste, untreated effluent, and sewage from urban and rural communities go right into the river," says ELAW Staff Scientist Meche Lu who toured the Motagua this summer. "The neglect and level of contamination is appalling."

**"Cleaning up
the Motagua is
not just about
protecting
nature, it's
about giving
local people
dignity."**

Meche Lu
ELAW Staff Scientist

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Cleaning up Polluted Rivers (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.

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

EDITOR: MAGGIE KEENAN

NEWSLETTER LAYOUT: ARTES CREATIVE

PRINTED BY: CENTRAL PRINT

USING: SOY BASED INKS

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The Motagua flows from Guatemala's Western Highlands, collecting waters of 29 major rivers, and draining into the Gulf of Honduras. The pollution poses a serious risk to public health and the Mesoamerican Reef. ADA2 is collaborating with authorities, universities, municipalities, citizen groups, and local NGOs to encourage better management of the Motagua's upper watershed.

"Cleaning up the Motagua is not just about protecting nature, it's about giving local people dignity," says Meche.

Manual para la buena gobernanza hídrica en los municipios de la Cuenca Alta del Río Motagua, Guatemala



Guatemala, junio 2015

In June, Meche Lu joined ADA2 at a community workshop in Chimaltenango to launch the *Manual For Good Water Governance in Municipalities of the Upper Motagua Watershed*.

Many thanks to the Laird Norton Family Foundation for making this work possible.

The Lerma Santiago Chapala Watershed

In Mexico, ELAW is working with the Instituto de Derecho Ambiental (Environmental Law Institute) to clean up the Lerma and Santiago River watershed, which includes the largest natural lake in Mexico, Lake Chapala. Drinking water for millions in the greater Guadalajara area is threatened by untreated industrial waste and agricultural runoff contaminated with pesticides and more.

Citizens know these waterways are suffering and support changes to improve watershed management.

ELAW Attorney Pedro León shared watershed clean up plans from around the world with partners at IDEA and in June ELAW and IDEA published a study identifying the steps needed to clean up the Lerma Santiago watershed.

During a July meeting of the Commission for Environmental Cooperation, ELAW partner Raquel Gutiérrez presented the study to the Commission's Joint Public Advisory Committee, seeking action from Mexico's Secretary of the Environment.

"The pollution is serious and people are desperate for the government to take action," says Pedro. "Our study shows the authorities what needs to happen."

The Corrientes, Tigre, Pastaza, and Marañón

ELAW has worked since 2002 to help advocates in Peru protect indigenous communities and rivers of the Loreto Region of the Peruvian Amazon, including the Corrientes, Tigre, Pastaza, and Marañón rivers, from toxic oil industry pollution.

Starting in the early 1970s, multinational oil companies, including Oxy and PlusPetrol, began drilling for oil in these watersheds of the Peruvian Amazon. Many pipelines have ruptured and the companies have released contaminated by-products into the watersheds. Quechua, Achuar, and Cocama Cocamilla indigenous communities rely on these rivers for clean water and fish. The contamination in these four river basins is so severe that Peruvian authorities declared an environmental emergency in September 2013.

Despite overwhelming evidence, it has taken four decades for Peru's government to respond.

In April 2015, after lengthy debate, the Peruvian Congress set aside \$50 million to clean up contamination of the watersheds of the Peruvian Amazon and design plans to prevent and respond to future spills.

ELAW Staff Scientist Meche Lu has been helping the indigenous federations through her collaboration with PUINAMUDT, an umbrella organization. Meche has interpreted dozens of water quality reports that contain evidence of how the Corrientes, Tigre, Pastaza, and Marañón rivers have been impacted by oil and gas activities. She has presented her evidence at workshops attended by community leaders and government representatives seeking to address the widespread contamination. Meche is continuing her work by helping our Peruvian partners design and implement a health and toxicology assessment of the affected communities.

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Cleaning up Polluted Rivers (CONTINUED)

ELAW supports grassroots advocates working to clean up rivers by:

- Designing environmental testing to identify water pollutants.
- Assessing water quality data to identify pollution sources, hazards, and remedies.
- Reviewing environmental impact assessments and plans for proposed developments to ensure that they meet water quality standards.
- Helping strengthen and enforce laws and policies that protect water.
- Identifying technologies and approaches that prevent or remedy damage to water supplies.

Water Facts

- 70% of the world is covered by water, but less than 3% is freshwater.
- Only 1% of freshwater is easily accessible, with much trapped in glaciers and snowfields.
- Approximately one in nine people lack access to safe water.
- By 2025, two-thirds of the world's population will live in water-stressed regions.

Source: National Geographic & World Health Organization

Protecting Baja California from Mining



Large-scale mining proposed for Baja California threatens local water resources in an area already under pressure from population growth and mega-resort development.

"Citizens have a right to be involved in decisions that impact their livelihoods and the environment, but it can be daunting to understand the process," says ELAW partner Fernando Ochoa at Environmental Defense of the Northwest (DAN).

Mining companies take advantage of this inequity, submitting highly technical proposals with unsupported promises to use the latest technology to protect the environment while providing a boost to the economy. Mining laws offer no space for public participation, so communities feel powerless.

DAN is helping communities on the Baja California peninsula participate in decisions about proposed mining activities through workshops and a public participation guide: *Participación Pública, Minería y Medio Ambiente*.

The guide provides an overview of Mexico's mining laws and explains the complex permitting system and regulatory standards that apply to mining operations. It identifies opportunities in the decisionmaking process for citizens to gather information, ask questions, present alternative ideas, influence mining regulations and policy, report violations, and seek administrative or judicial relief.

DAN's María Llano took the lead in the research of the guide, with help from Fernando, colleagues at DAN, and ELAW's

Pedro León and Killian Doherty. Many thanks to the International Community Foundation and Resources Legacy Fund for supporting this work.

“Coal is the world’s biggest source of carbon emissions by far and the leading culprit in global warming.”

New York Times,
King Coal,
August 6, 2015



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Keeping Coal

Burning coal is the leading cause of smog, acid rain, and toxic air pollution. ELAW partners around the world are working to keep coal in the ground. ELAW is collaborating with partners in South Africa, Chile, the Philippines, India, Kenya, Thailand, Egypt, Ukraine, Sri Lanka, and the Czech Republic to challenge coal and advance green energy alternatives. The following are examples of our recent work.



Kusmunda coal mine, Chhattisgarh, India. PHOTO: Patrik Oskarsson

India: Kusmunda open-pit coal mine

Communities in the coal-rich areas of Chhattisgarh State are bearing the brunt of health and environmental impacts of open-pit coal mining. The Kusmunda coal mine, operated by South Eastern Coalfields Limited (SECL), is one of India’s largest mines. SECL has a poor track record, having expanded the mine several years ago without first obtaining environmental clearance and with complete disregard for the customary land rights of indigenous communities living near the mine. The current expansion plan will displace more than 9,000 people and nearly quadruple production of low-grade coal.

ELAW Staff Scientist Mark Chernaik reviewed the EIA and identified many instances where SECL provided misleading information to disguise the potential environmental impacts of expanding the mine. The company also failed to provide any detailed plan for relocating and resettling villagers. Mark referenced Google Earth images covering an eight-year time period and discovered the company has reclaimed virtually no land since mining operations began, even though it is supposed to be progressively restoring land throughout the life of the project.

Community members raised these concerns at a public hearing in February, pressing for the expansion plans to be rejected. In August, the Ministry of Environment and Forests' Expert Appraisal Committee declined expansion of the mine, citing serious violation of environmental laws.



Bird and whale habitat in Koddigar Bay, Sri Lanka, are threatened.

Sri Lanka: Energy alternatives

The proposed Sampur coal-fired power plant is a joint venture between the governments of Sri Lanka and India. Sampur would be Sri Lanka’s second coal-fired power plant. Advocates are eager to stop the project and prevent Sri Lanka from going down the path of using coal as an energy source when alternatives are available.

The EIA for the power plant is woefully deficient. The project proponents provided no explanation of how the company would dispose of coal ash, and heated waste water would increase ocean temperatures, threatening internationally recognized whale habitat.

ELAW Staff Scientists collaborated with partners at the Centre for Environmental Justice (CEJ) to prepare a detailed critique of the EIA, which CEJ provided to the Central Environmental Authority in late March. CEJ will closely monitor the decision in the upcoming months and seek ELAW’s assistance if further action is needed.

in the Ground

South Africa: Stopping open-pit coal mine sprawl in Mpumalanga grasslands

ELAW partners at the Centre for Environmental Rights (CER) are evaluating legal strategies to stop rampant open-pit coal mining in the province of Mpumalanga. The Department of Mineral Resources is approving mine after mine without considering the cumulative impacts to an important grassland area that is a source of water for three major South African rivers. The area is already degraded and polluted, yet officials evaluate each new mining proposal in isolation. Advocates are looking for ways to force government officials to undertake cumulative impacts analysis of mining in the region and protect constitutional rights to a clean and healthy environment. ELAW provided examples of helpful initiatives and legal theories employed by Indian, U.S., and Filipino advocates in coal cases. We will continue to work with our colleagues at CER to find an effective strategy to rein in destructive mining in this region of immense importance for water security and food production.



Coal strip-mining in Mpumalanga. PHOTO: cer.org.za.

“All around Australia, communities and environmental groups are celebrating this victory for the climate and the Great Barrier Reef.”

Sue Higginson



Australia: One of the world’s largest coal mines quashed

ELAW congratulates partners at the Environmental Defenders Office in New South Wales (EDO NSW) for a stunning victory that shelved what would have been one of the largest coal mines in the world. In August, approval of Adani’s Carmichael coal mine in central Queensland was overturned in the Federal Court of Australia.

Sue Higginson, principal solicitor of EDO NSW said, "The decision of the Court to set aside the Carmichael mine’s federal approval was based on a failure by the Minister to have regard to conservation advice for two Federally-listed vulnerable species, the Yakka Skink and Ornamental Snake . . . The case also alleged that the Minister failed to consider global greenhouse emissions from the burning of the coal, and Adani’s environmental history, however these matters are left unresolved before the Court."

The mine is now without legal authority to commence construction or operate.

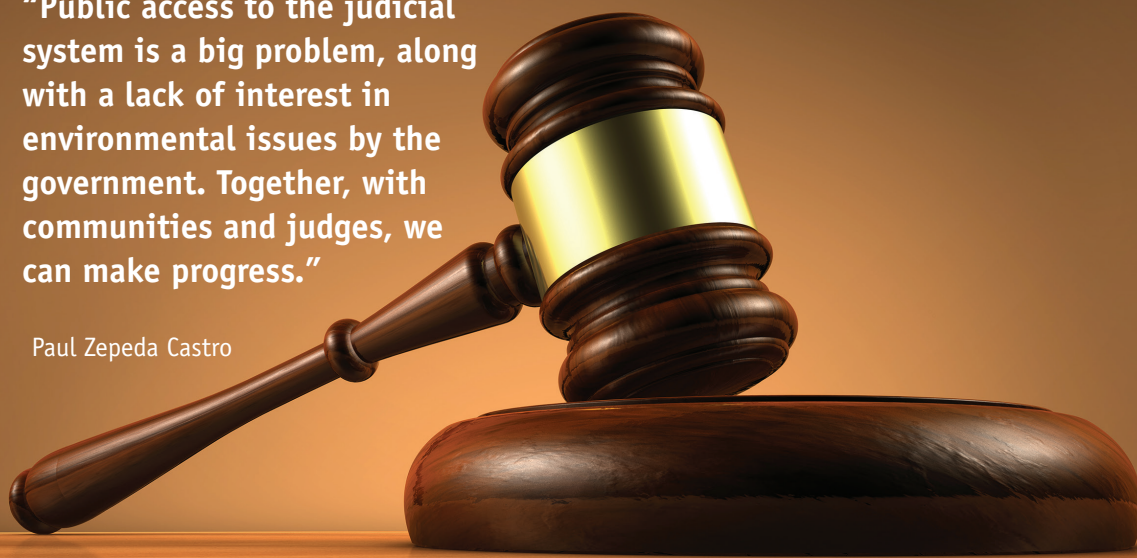


PHOTO "Blue Starfish" by Richard Ling. CC BY-SA 2.0 via Wikimedia Commons

Training Judges

"Public access to the judicial system is a big problem, along with a lack of interest in environmental issues by the government. Together, with communities and judges, we can make progress."

Paul Zepeda Castro



Environmental law is a complex subject with novel and technical issues that can be challenging for judges to resolve. ELAW partners in Uganda and Honduras have launched training programs to build the capacity of judges to interpret and apply international and domestic environmental law.

Oil development in **Uganda** is threatening national parks and local communities. Raising awareness among judges on relevant laws holds the promise of strengthening governance and protecting valuable national resources for future generations.

"We have collaborated with the Uganda Judicial Studies Institute to train about 20 judicial officers," says Frank Tumusiime, an attorney with Advocates for Natural Resources Governance and Development, based in Kampala, Uganda.

"Training judges is key to preserving the rule of law, transparency, public participation, and accountability in the natural resources sector."

In **Honduras**, attorney Paul Zepeda Castro has helped the Honduran Institute for Environmental Law (IDAMHO) partner with the Supreme Court of Honduras to raise awareness of environmental issues among members of the judiciary. Paul is Board Secretary at IDAMHO and recently completed an ELAW Fellowship.

"Honduras does not have a court dedicated to environmental concerns so it is important that judges have an opportunity to explore these issues, with experts," says Paul.

Honduran scientists and engineers participated in workshops with Honduran judges. International experts also participated, including a member of Panama's Supreme Court and a professor from the National University of Costa Rica. Participants discussed the interaction between international and domestic environmental laws, as well as the role that scientists can play as expert witnesses.

IDAMHO is engaged in a related effort to educate communities about environmental laws. Paul worked with IDAMHO to publish a popular community mining guide that uses clear, concise language to help citizens understand and defend their rights when mining activities threaten community welfare. Mining is widespread in Honduras, and the laws regulating mining operations are complex. Communities have found the guide extremely helpful.



Inside ELAW



Summer 2015 Legal Interns

Sara Montrone (right) and Joni Sliger were a welcome addition to the ELAW legal team this summer. "It would be a challenge to respond to all of the calls for assistance from around the world without the help of hardworking legal interns," says Jen Gleason, ELAW Staff Attorney.

Sara worked on many projects, including identifying model recycling legislation for partners in Jamaica, researching initiatives to keep coal-fired power plants out of UNESCO World Heritage sites, and analyzing environmental impact assessment laws from several countries.

"The experience was enlightening and motivating," she said.

Joni describes her experience as "diverse!" Her projects included research on using the public trust doctrine to protect wildlife, the impacts of special economic development zones, and arranging tours of local courts for visiting ELAW Fellows from Honduras and Germany.

Sara is starting her second year at the University of Oregon School of Law. Joni is starting her third year at Lewis and Clark Law School.

"As more advocates around the world call on ELAW for help, our hardworking legal interns make it possible for us to give our partners the help they need," says Jen.

If you are interested in learning more about ELAW's legal internship program or other volunteer opportunities, please visit our website: www.elaw.org/get-involved.

**VOLUNTEER
POWER!**

Thank you ELAW Volunteers

ELAW volunteers and interns contribute thousands of hours every year to help communities speak out for clean air, clean water, and a healthy planet. We thank the following for contributing their time this year.

Natasha Compton, Laoni Davis, Charlotte Fisher, Raelissa Glennon, Alexander Harris, Alexander Held, Catherine Jaffe, Benjamin Jelinsky, Tatum Johnson, Camille Kaynor, Emma Sloan, and Travis Van Horn.

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Support ELAW Fellows

Mining operations in **Ghana** threaten agricultural lands and waterways.

ELAW seeks support for an ELAW Fellowship for Kumi Larbi, Associate Legal Officer at the Centre for Public Interest Law (CEPIL) based in Accra. An ELAW Fellowship for Kumi would make it possible for him to work one-on-one with ELAW Staff Scientists and Staff Attorneys to better understand the science behind mining contamination and strengthen CEPIL's work to protect agricultural lands and the health of local communities.

Kumi earned a Bachelor of Arts in Sociology and Law from the University of Ghana and a law degree from the Ghana School of Law. As a student, he was part of a research team that worked in Tarkwa mining communities on the human rights project, "The Cost of Gold."

If you are interested in
supporting a two-week visit to Eugene
for Kumi, please contact **Ashley White**,
Director of Philanthropy, ashley@elaw.org.



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