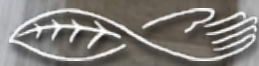


# 2018 Annual Report



EARTHRIGHTS INTERNATIONAL





# Our Mission

EarthRights International is a nongovernmental, nonprofit organization that combines the power of law and the power of people in defense of human rights and the environment, which we define as “earth rights.”

We specialize in fact-finding, legal actions against perpetrators of earth rights abuses, training grassroots and community leaders, and advocacy campaigns. Through these strategies, EarthRights International seeks to end earth rights abuses, to provide real solutions for real people, and to promote and protect human rights and the environment in the communities where we work.





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# Letter from our Directors

Katie Redford and Ka Hsaw Wa at the ribbon cutting ceremony for the Mitharsuu Center for Leadership and Justice.

Dear Friends,

2018 was an exciting and critical year for EarthRights International, and Earth Rights Defenders around the world. From Standing Rock, North Dakota to Gujarat, India and beyond, communities contended with the global escalation of repression and violence linked to disputes over land rights and access to natural resources. Record numbers of Earth Rights Defenders were killed, criminalized, and targeted for intimidation and abuse last year. As these threats escalated, so did our work to protect activists, expose the abuse, and hold the perpetrators accountable.

Amid this backdrop of corporate exploitation and human rights abuses, Earth Rights Defenders used the power of law to band together to protect their communities, their basic rights and economic security, and the environment. If 2018 reminded us that corporations will stop at nothing to secure their bottom lines, it also showed us that the power of law and the power of people is still the best deterrent of exploitation and abuse and that companies must be held accountable for the damages they inflict on people and the planet.

Take for example our client, Oglala Lakota and Northern Cheyenne organizer and Army veteran Krystal Two Bulls, who was sued for daring to do what is right and necessary--defend indigenous land from corporate exploitation at the hands of Energy Transfer, the company behind the controversial Dakota Access pipeline. The company sued Krystal in federal court under the Racketeer Influenced and Corrupt Organizations Act (RICO) for peaceful opposition and speech during 2016's historic Standing Rock protests. Together with

our co-counsel, the Center for Constitutional Rights and Robin Martinez, we successfully defended Krystal in her federal case, which was dismissed in February of 2019. The decision upheld her rights to free speech and her rights as an Indigenous woman to protect her lands and sent a powerful message to corporations that communities facing these tactics will not be silenced.

This was not the first, or the last time, that Energy Transfer has brought harassing lawsuits against Standing Rock protestors. The company previously sued our client BankTrack (the case was successfully dismissed in 2018), Greenpeace, and the EarthFirst! movement in federal court. To this day, the company continues to pursue its retaliatory litigation against Krystal in North Dakota state court, where we will continue to represent her.

While the defendants in each of these cases varied, they all shared a common bond—they were targeted by corporations in an effort to undermine their right to free speech and lawful protest. These cases are what is known as Strategic Litigation Against Public Participation (SLAPP) lawsuits—a disturbing tactic that is increasingly used by corporations to silence those who oppose their practices. But one victory isn't enough to halt these chilling lawsuits altogether. That's why we were proud to join forces with Greenpeace, the International Corporate Accountability Roundtable, and other NGOs in 2018 to form Protect the Protest, a task force to end these abusive lawsuits and to support the brave activists that are standing between the world's most precious resources and the powerful elites intent on destroying them. In December, we launched Fighting Back, an action plan and online resource to help Earth Rights Defenders in their

important work of protecting their communities and the planet.

Oil and gas corporations weren't the only institutions whose abusive practices we fought and prevailed against in 2018. For years, the International Finance Corporation (IFC), the arm of the World Bank Group that finances projects by private corporations, tried to evade responsibility for its role in the destruction caused by Tata Mundra Ultra Mega power plant, a 4,150MW power plant along the Gujarat coast, so we took the case to the U.S. Supreme Court in 2018. The IFC funded the power plant, which destroyed natural resources that generations of local families had relied on for fishing, farming, and economic self-determination, while also spewing climate-destroying emissions into the atmosphere. Those living in the shadow of this destructive project first filed suit in 2015, marking the first time that project-affected communities have taken legal action to hold an international financial institution like the IFC accountable for funding and enabling a destructive project.

In a historic 7-1 decision, the U.S. Supreme Court ruled that international organizations like the IFC can be sued in U.S. courts. Budha Ismail Jam, et al v. IFC marked a watershed moment for Earth Rights Defenders and frontline communities, sending a clear message to the World Bank and similar institutions that they are not above the law. In some ways, this victory paralleled *Doe vs Unocal*--the case that inspired EarthRights' inception. In both cases, we took on a wealthy, powerful force

that was operating with impunity, and against seemingly impossible odds, prevailed.

While separated by tens of thousands of miles, and challenged by different circumstances, Earth Rights Defenders like Krystall and the brave farming and fishing families of Gujarat are all connected. They, and others in the Amazon and Mekong regions and beyond have all stood up to global systems designed to exploit natural resources and to silence or remove anyone and anything standing in their way. In 2018, we showed that with the right tools, communities can and will resist corporate efforts to exploit resources and lives for profits. That's because Earth Rights Defenders will not be silenced or intimidated, even when powerful governments and corporations try to undermine our freedom of speech.

The victories of 2018 will fuel our momentum in 2019 and beyond. As we look ahead to our 25th anniversary in 2020, we are more committed than ever to unite with allies, partners, and supporters to prevent human and environmental abuses, protect communities and resources from exploitation, shine a light on corruption, and obtain justice for targets of abuse.

In solidarity,

**Katie & Ka Hsaw Wa**



# 2018 At A Glance

**We beat the company behind the Dakota Access Pipeline.** Energy Transfer is a multi-billion-dollar Texas-based pipeline company whose project was opposed by indigenous groups and their allies in the historic Standing Rock protests. They tried to hold Krystal Two Bulls liable under federal anti-racketeering laws for millions of dollars of supposed damages from the protests. EarthRights and the Center for Constitutional Rights took on Ms. Two Bulls' case—and won.

**We took the International Finance Corporation, part of the World Bank Group, to the Supreme Court.** In October, we argued in the Supreme Court in the landmark lawsuit *Budha Ismail Jam, et al v. IFC*, which decided if international organizations are immune from lawsuits in U.S. courts. In a case that asks for accountability from the funding arm of the World Bank Group, the 2019 ruling marks the end of impunity for international organizations.

**We connected public interest lawyers in Latin America with indigenous defenders.** This June marked the fourth edition of the seminar, and included leaders, lawyers, and indigenous lawyers from Mexico, Chile, Guatemala, Bolivia, Colombia, Ecuador, Paraguay, and Peru.

**We exposed the contracts between extractive companies and police forces in Peru.** We conducted a groundbreaking analysis of over two years of contracts between Peru's National Police and extractive companies. The report is expected to draw public attention to the improper links between the police and these companies.

**We defended the “33 Farmers” of Myanmar.** We have supported the 33 farmers whose land was seized in 1996 as part of the same government land grab that established the Thilawa Special Economic Zone.

**We helped shape Thailand's National Action Plan on Business and Human Rights.** We continued to work with ETO-Watch to influence the drafting of Thailand's National Action Plan (NAP) on Business and Human Rights, with the goal of strengthening oversight of Thai outbound investments.



TO ORDER TO BE A MORE LIKABLE COMMUNITARIAN,  
HAVE A COMMUNITARIAN MINDSET. BECAUSE THE FUTURE  
DEPENDS ON THE MINDSET OF ALL PEOPLE,  
AND TO BE A COMMUNITARIAN IS TO BE A COMMUNITARIAN.  
AND THE FUTURE IS A COMMUNITARIAN.

GREEN NEW DEAL

THERE IS NO  
PLANET B



# Climate Change

Climate change is here now, and it will only get worse.

For decades, companies in the fossil fuel industries have achieved record profits, in large part because they have been able to force the hidden costs of their greenhouse gas emissions onto local communities.





## We joined Colorado communities in suing the fossil fuel industry

This year, we represented the Colorado communities of Boulder County, San Miguel County, and the City of Boulder in filing a lawsuit against Exxon Mobil and Suncor Energy, two oil companies with significant responsibility for the climate crisis. Both Exxon and Suncor have been particularly active in Colorado. Both have invested heavily in some of the dirtiest and most harmful fossil fuels, obtained from tar sands in Canada and through fracking.

Most people in Colorado understand that climate change is happening. Colorado is one of the fastest-warming areas in the United States. Over the next three decades, these communities are expected to face costs reaching hundreds of millions of dollars or more in order to cope with

the consequences of climate change.

These local governments have attempted to address climate change, but these companies have continued to act recklessly.

This is the first such lawsuit in Colorado—or anywhere in the U.S. interior—aimed at holding fossil fuel companies accountable for paying their fair share of the costs of climate change.

## We planned the first National Energy Conference for civil society in Myanmar

Myanmar is one of the most vulnerable countries in the world to the effects of climate change.

On a path towards rapid development, Myanmar is attempting to achieve 100% energy sufficiency by 2030. Currently, only one-third of the

country has access to electricity from the national grid. Although many alternatives to energy planning for the country have been put forward by various development partners, the current official National Electrification Master Plan relies heavily on coal (33%) and hydropower dams (38%).

Coal and hydropower projects are not only major contributors to global greenhouse gas emissions, they can also impose serious impacts on the land, water, and air quality of surrounding communities. Moreover, communities on the ground are strongly opposed to these large-scale power development projects.

In November 2018, EarthRights organized the Myanmar National Energy Conference for civil society, which brought together more than 100 representatives of civil society groups and communities from every state in Myanmar to learn about the country's National Electrification Master Plan and broader issues related to energy

and climate change.

We designed the conference to serve as a first step in fostering a coordinated national movement of civil society organizations advocating for a national energy planning that is consistent with the global efforts to address climate change, and that is inclusive of communities on the ground that are directly affected by large-scale power development projects. This conference represented Myanmar's first national-level convening of civil society and community leaders working on energy-related issues.





## We strengthened communities to monitor impacts of coal power in Laos

The Hongsa coal plant and mining project is a Thai foreign investment project in Xayaboury Province, Laos, which includes a lignite coal mine, an 1878-megawatt coal-fired power plant, a limestone quarry, and two dams. The coal plant is the first in Laos, and the lignite mine is one of the largest in Southeast Asia.

The potential transboundary impacts of the Hongsa mine and power plant are enormous. The project is projected to cause mercury poisoning of lakes that extend into Thailand, respiratory problems from air pollution, and significant greenhouse emissions. Altogether, the project would impose an estimated social cost of USD\$10 billion.

The Thai communities in this area (the Nan people) are demanding access to

information about their rights and the environmental impacts of the Hongsa project, so they can ensure that their water and lands are not contaminated. Agricultural products are their primary source of income and food.

In 2018, we made significant progress supporting and building the leadership of the Nan communities to monitor the impacts of the project, access information, and engage with project stakeholders. We conducted a legal training workshop on the rights of Thai citizens as provided in Thailand's Constitution and Thai Administrative Law, and on basic criminal law, to address land tenure issues the community has been facing.

We also facilitated an exchange visit with communities in the Mae Moh district, which have been dealing with

the impacts of the controversial Mae Moh power plant for decades. We made concrete progress in conducting, analyzing, and sharing scientific research on the impacts of the Hongsa Coal Power Plant, in close collaboration with our partners and the affected communities from Nan province. All of this research will strengthen future advocacy to pressure the government and project stakeholders to address the impacts of the mine.





# EarthRights Defenders

There are people who stand between the world's most powerful corporations and its most valuable natural resources. They are often the last line of defense between frontline communities and the destructive impacts that occur so often with natural resource exploitation projects.

Earth Rights Defenders are instrumental in supporting their communities to stand up for and claim their rights: They expose injustice, demand accountability from their governments, and change laws that undermine human rights. They are advocates, organizers, trainers, educators, and connectors. We are here to support those who defend the earth.



## We launched *Fighting Back: A Global Protection Strategy for Earth Rights Defenders*

As worldwide threats against activists continue to grow, EarthRights is supporting the global movement to protect civic space for environmental and human rights activism.

Environmental and human rights activists face a global wave of repression and violence linked to land disputes, natural resources, and climate change. Unfortunately, this violence continues to grow worse. Two hundred and seven killings of land and environment defenders were documented in 2017, the worst on record.

To mark the 20th anniversary of the UN Declaration on Human Rights Defenders, we launched our action plan and interactive web platform entitled *Fighting Back: A Global Protection Strategy for Earth Rights Defenders*. We held events in Washington, D.C. and Bangkok to lay

out a roadmap to protect the rights of Earth Rights Defenders, so that they can continue their important work of safeguarding our planet. In the coming years, we will advocate for policy reforms to strengthen protections for Earth Rights Defenders, while continuing to use the power of the law to defend activists from specific threats.

Learn more by visiting our website at [www.earthrightsdefenders.org](http://www.earthrightsdefenders.org).



## Milton Sánchez Cubas

Spokesperson of the Celendina Inter-Institutional Platform in Peru  
*EarthRights* represents Milton in his case against Newmont Mining

*"This criminal investigation and prosecution used the criminal justice system to harass, silence, and destroy the work done by the defenders in Celendín against the abuses carried out by certain corporations, with the full complicity of some representatives of the Public Prosecutor's Office, the Ministry of the Interior, and the National Police of Peru."*

Milton Sánchez Cubas is the spokesperson of a major social justice movement in the mining region of Peru. Powerful interests attempted to criminalize his advocacy, leading to over 60 criminal counts against him, all for protecting the land, water, and people of his community from mining giant Newmont's encroachment.

In 2018, he was acquitted of all criminal charges. Sánchez Cubas was being investigated for his leadership in a protest protecting freshwater lagoons near Tragadero Grande in the rural Sorochuco community. This is also where Goldman Environmental Prize-winner Maxima Acuña Chaupe lives. She has been a victim of human rights violations perpetrated on behalf of Newmont.

Sánchez has repeatedly condemned the abuses stemming from the projects in Celendín, including land grabbing and environmental and water pollution, which seriously affect the rights of the communities that live in the area.

Earth Rights  
Defenders



## We hosted the Forest Defenders Conference in Thailand

Together with Not1More and the Cambodian Youth Network, EarthRights organized and hosted the Forest Defenders Conference at our new Mitharsuu Center for Leadership and Justice in Thailand at the end of 2018.

The first two days brought together more than 35 defenders from

Southeast Asia and international civil society for workshops on security, advocacy, and legal strategies. This was followed by a two-day conference attended by representatives of international and regional NGOs, UN Environment, the UN Office of the High Commissioner for Human Rights, and funders from across Southeast Asia.

The conference sought to address the mounting crisis of closing space for civil society in the region and globally. One of the outcomes of the conference was the Environmental Defenders Declaration for Southeast Asia, a solidarity document and advocacy tool for defenders from the region.

## We launched the “Protect the Protest” task force to respond to threats within the United States

Over the past decade, we have witnessed a global trend of shrinking civic space. Cases of activists being harassed, jailed, and killed have spiked around the world. The United States is no exception. Many acts of intimidation in the United States occur within the legal system. For decades, powerful interests in the United States have attempted to intimidate and silence public watchdogs, journalists, and advocacy groups by filing baseless, retaliatory lawsuits called “Strategic Lawsuits Against Public Participation” or SLAPPs.

SLAPPs are a preferred intimidation tactic among corporations in the United States. They are an abuse of the court system and a violation of the

First Amendment rights of those who speak truth to power.

In response to the growing SLAPP threat in the United States, we teamed up with over 20 civil society organizations to create the Protect the Protest task force to put an end to corporate attempts to weaponize litigation in the United States.

Our task force includes experienced lawyers, journalists, communications professionals, and activists from the country’s strongest social justice and civil liberties organizations, including Greenpeace, the ACLU, Human Rights

Watch, and the Electronic Frontier Foundation, among others. Together, we have provided legal and campaign support to many activists facing these threats.

We launched the coalition in September with a panel in San Francisco aboard the Greenpeace ship, the Arctic Sunrise; at an event in New York City in front of Kasowitz Benson Torres, Trump’s go-to law firm, and the law firm behind many of the recent SLAPP suits; and with a mobile billboard in Dallas that asked notorious pipeline company Energy Transfer to “stop suing people for speaking out!”





## Krystal Two Bulls

*Indigenous organizer and U.S. army veteran*

*EarthRights represents Krystal in her case with Energy Transfer*

*“As an indigenous woman, a veteran, and an environmental and indigenous rights activist, I take my responsibility as an original steward of this land seriously. Energy Transfer continues to violate Mother Earth, disregard the rights of indigenous peoples, and is now trampling on my constitutional rights. This whole case is about silencing and intimidating those who stand for what is right and just. I will not be silenced or intimidated.”*

Late in 2018, Energy Transfer, the company behind the controversial Dakota Access Pipeline, filed a lawsuit against Krystal Two Bulls, an Oglala Lakota and Northern Cheyenne U.S. army veteran and environmental and indigenous rights activist. EarthRights urged the federal court to dismiss the racketeering lawsuit, which was filed against her simply because she stood

for her land, water, and people against the Dakota Access Pipeline.

Energy Transfer and its lawyers – Kasowitz Benson Torres LLP, which has repeatedly represented Donald Trump—alleged that Ms. Two Bulls made statements encouraging people to protest at Standing Rock and served as a liaison between the protesters and the press and public, all of which is clearly protected by the First Amendment.

Read more about her case under the 2019 Sneak Peak.

# Earth Rights Defender

## We beat the company behind the Dakota Access Pipeline

Energy Transfer is a multi-billion-dollar Texas-based pipeline company that is developing the Dakota Access Pipeline, opposed by indigenous groups and their allies in the historic Standing Rock protests. The company has become notorious for its use of intimidation tactics against activists.

BankTrack is a small NGO based in the Netherlands that works to stop private banks from financing projects that are harmful to human rights and the environment, and to make their financing operations more responsible.

BankTrack wrote letters to banks cautioning them against financing the Dakota Access Pipeline. Then, in 2017, Energy Transfer hit them, along with activists from Greenpeace and other organizations, with a \$900 million lawsuit. In July, the court dismissed

the “dangerously broad” claims against BankTrack.

But Energy Transfer didn’t stop there— it proceeded to sue additional activists, including Krystal Two Bulls, an Oglala Lakota and Northern Cheyenne organizer who was a water protector at Standing Rock. Energy Transfer failed to allege any unlawful acts by Ms. Two Bulls, but still tried to hold her liable under federal anti-racketeering laws for millions of dollars of supposed damages from the protests. EarthRights and the Center for Constitutional Rights took on Ms. Two Bulls’ case.

Read more about Krystal Two Bulls’ case in the 2019 Sneak Peak.





# Corporate Power

The natural resource sectors are frequently connected to human rights abuses and attacks against Earth Rights Defenders. Most major natural resource exploitation projects involve international actors, international financial institutions (IFIs), law firms, public relations firms, contractors, and suppliers, to name a few. All of these actors have a shared responsibility to respect human rights in their operations, and many of them carry a great deal of leverage over how these projects are carried out.

IFIs such as the World Bank Group have enormous influence in the natural resource sectors. As a result of years of pressure from civil society, the World Bank and other IFIs have adopted policies designed to prevent environmental and social harms, as well as accountability mechanisms where affected communities can raise complaints when harm occurs.

This system of accountability has never provided consistent remedies to injured communities, but the IFIs are now rolling back even these basic

protections, straying from their development mandates.

Other major actors in the natural resource sector, including state-owned and private companies, use even less responsible business models. Many companies compete in a “race to the bottom” as they pursue high risk investments with no regard to effects on communities. In this corporate battle to seize wealth, the rights of local communities are being treated as collateral damage.



## No one should be above the law, not even the World Bank Group

For almost a decade, fishing communities and farmers in Gujarat, India have struggled against the International Finance Corporation (IFC) over the destructive Tata Mundra Ultra Mega coal-fired power plant.

The IFC, the arm of the World Bank Group that funds private corporations, financed the power plant. Faced with devastating health and environmental impacts, the communities raised their

concerns to the IFC's accountability mechanism, which investigated and agreed with the communities.

In 2015, after IFC's management decided to ignore the findings of its own internal mechanism, EarthRights helped the communities bring a federal lawsuit against the IFC in Washington, D.C.

The IFC responded by claiming that it has "absolute" immunity from lawsuits

in the United States. The case went up to the U.S. Supreme Court.

In October, the Supreme Court heard oral arguments in the landmark lawsuit, *Jam v. IFC*, which will decide if international organizations are immune from lawsuits in U.S. courts.

Check out the 2019 Sneak Peek section to see how the case turned out.

## We advocated for increased oversight of China's overseas investments

China plays an increasingly important role in the natural resource sectors of many developing countries. Unfortunately, in many cases, Chinese investments in mega-projects have been accompanied by human rights abuses and environmental damage. Local communities across the world have faced significant difficulties engaging with Chinese companies on these abuses and seeking remedies for harms caused. EarthRights is working with partners in the Mekong and Amazon regions to promote increased oversight and accountability of Chinese overseas operations.

In March, we partnered with civil society organizations in Latin America to submit an alternative report to the Universal Periodic Review of the

United Nations Human Rights Council on China. This report highlighted human rights and environmental violations surrounding four Chinese-owned mining operations in Peru, including the Las Bambas mining project. Additionally, EarthRights and partners submitted a regional report that included case studies from other Latin American countries. In March 2019, the Human Rights Council adopted the recommendations of the Universal Periodic Review for China.

## We helped shape Thailand's National Action Plan on Business and Human Rights

We continued to work with ETO-Watch, the extraterritorial watchdog coalition of Thailand, to influence the drafting of Thailand's National Action Plan (NAP) on Business and Human Rights, with the goal of strengthening

oversight of Thai outbound investments.

In August, in order to ensure that the NAP reflects communities' voices and concerns, EarthRights helped two community members from Dawei and Hongsa participate in the consultation – a rare opportunity for members of affected communities to raise their concerns directly with the foreign actors harming their land and livelihoods.

In December, EarthRights helped coordinate a final civil society consultation to provide feedback on the draft NAP to Thailand's Ministry of Justice.

Photo credit: Bharat Patel





Members of the Mae Moh and Nan communities pose with a map of one of the Nan communities, showing crops, rivers, and watersheds.

## We created a program to help project-affected communities in the Mekong region engage with businesses and governments on human rights

EarthRights' Local Engagement, Action, and Dialogue (LEAD) program supports communities throughout the Mekong region in developing comprehensive strategies around access to information, public participation, and remedies for harms caused by business activities.

The initiative aims to equip communities affected by large development projects, as well as EarthRights School alumni and partners, with both the technical tools and advocacy and organizing skills needed to engage directly with corporations and governments.

In December, EarthRights hosted at the Mitharsuu Center a gathering of 25 community leaders and partner CSO representatives from Myanmar who are developing different community-led tools that will be included in our forthcoming LEAD Toolkit.

The materials come from various community-led tools for information-gathering, engagement, and access to remedy. This project seeks to integrate individual community-led tools into a single resource that will be both replicable and adaptable to each community's specific context and advocacy goals, so they can effectively and confidently develop and implement comprehensive strategies.

The purpose of this first LEAD gathering was to create a space where community leaders can share information and strategies directly with each other and can connect with EarthRights and partners for support on implementing the tools. The convening brought together community leaders and civil society representatives who have experience working on the Community-Driven Operational

Grievance Mechanism (CD-OGM - see page 25), EarthRights' flagship community-led project; conducting community natural resource mapping; engaging in environmental impact assessments; conducting participatory monitoring of development projects; and conducting community health impact assessments.



## We innovated community-led alternatives to corporate-controlled grievance mechanisms

Largely due to the influence of the UN Guiding Principles on Business and Human Rights, companies around the world have recognized the need to establish processes to engage with local communities when grievances arise during their operations. However, many of these company-controlled grievance mechanisms have failed to effectively address serious human rights violations.

EarthRights' Community Driven Operational-level Grievance

Mechanism (CD-OGM) model offers an effective alternative to company-driven processes, providing legitimacy while shifting power towards communities to address human rights abuses. Affected communities design and implement the CD-OGM themselves, in accordance with their needs and expectations as rights-holders, rather than those determined by the company or outside experts.

Communities, together with EarthRights, developed and piloted the

CD-OGM with Thilawa communities in Myanmar that have been affected by the creation of a “special economic zone.” The special economic zone has forced local communities to relocate, threatening health conditions and peoples' abilities to make a living, while disrupting the community's internal dynamics. Responding to these impacts is a years-long effort. EarthRights continues to work with the Thilawa communities to use the CD-OGM model to obtain remedies for harms caused.



Woman in Thilawa

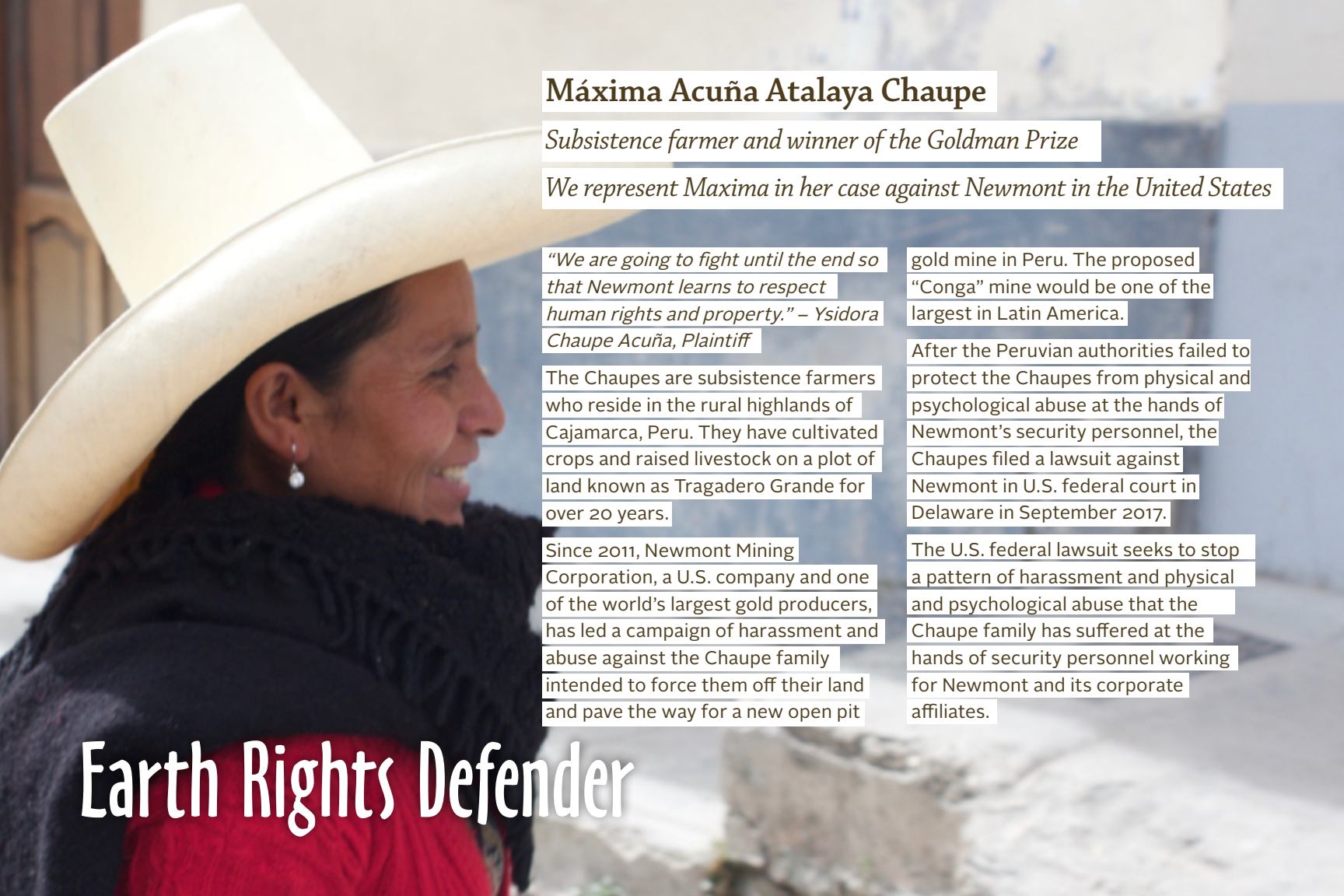




# Extractive Industries

Extractive industries – oil, gas, and mining – have a long history of engaging in risky operations fraught with human rights abuses. Extractive companies have maximized their own profits by imposing costs on local communities as they seize land, forcefully resettle people, and contaminate water and soil with dangerous chemicals. Earth Rights Defenders have long struggled to protect the rights of communities affected by these industries.





## Máxima Acuña Atalaya Chaupe

*Subsistence farmer and winner of the Goldman Prize*

*We represent Maxima in her case against Newmont in the United States*

*“We are going to fight until the end so that Newmont learns to respect human rights and property.” – Ysidora Chaupe Acuña, Plaintiff*

The Chaupes are subsistence farmers who reside in the rural highlands of Cajamarca, Peru. They have cultivated crops and raised livestock on a plot of land known as Tragadero Grande for over 20 years.

Since 2011, Newmont Mining Corporation, a U.S. company and one of the world’s largest gold producers, has led a campaign of harassment and abuse against the Chaupe family intended to force them off their land and pave the way for a new open pit

gold mine in Peru. The proposed “Conga” mine would be one of the largest in Latin America.

After the Peruvian authorities failed to protect the Chaupes from physical and psychological abuse at the hands of Newmont’s security personnel, the Chaupes filed a lawsuit against Newmont in U.S. federal court in Delaware in September 2017.

The U.S. federal lawsuit seeks to stop a pattern of harassment and physical and psychological abuse that the Chaupe family has suffered at the hands of security personnel working for Newmont and its corporate affiliates.

## We continue our struggle against Newmont’s bullying

For years, the Newmont Mining Corporation has harassed and abused Máxima Acuña-Atalaya de Chaupe and her family to obtain their land for a new gold mine. The family asked EarthRights to bring their case against Newmont in the United States, and we filed a federal lawsuit. In 2018, a court in Delaware decided that the case should be heard in Peru, even though the company has been incorporated in Delaware for almost 100 years, and despite Newmont’s history of corrupting the Peruvian courts.

But the Chaupes remained undeterred. Together, we appealed the decision and continue the fight to hold Newmont accountable.

## In Peru, we exposed extractive companies’ contracts with police forces

EarthRights, the National Coordinator of Human Rights in Peru, and the Legal Defense Institute conducted a groundbreaking analysis of over two years of contracts between Peru’s National Police and extractive companies. The report is expected to draw public attention to the improper links between the police and these companies.

The report, which was published in early 2019, revealed the existence of 138 contracts for the hiring of police services, signed between 1995 and 2018. Of these, 29 are still active today. Most of the extractive companies that signed these contracts have projects located in regions with social uprisings and where the projects have been questioned by local communities.

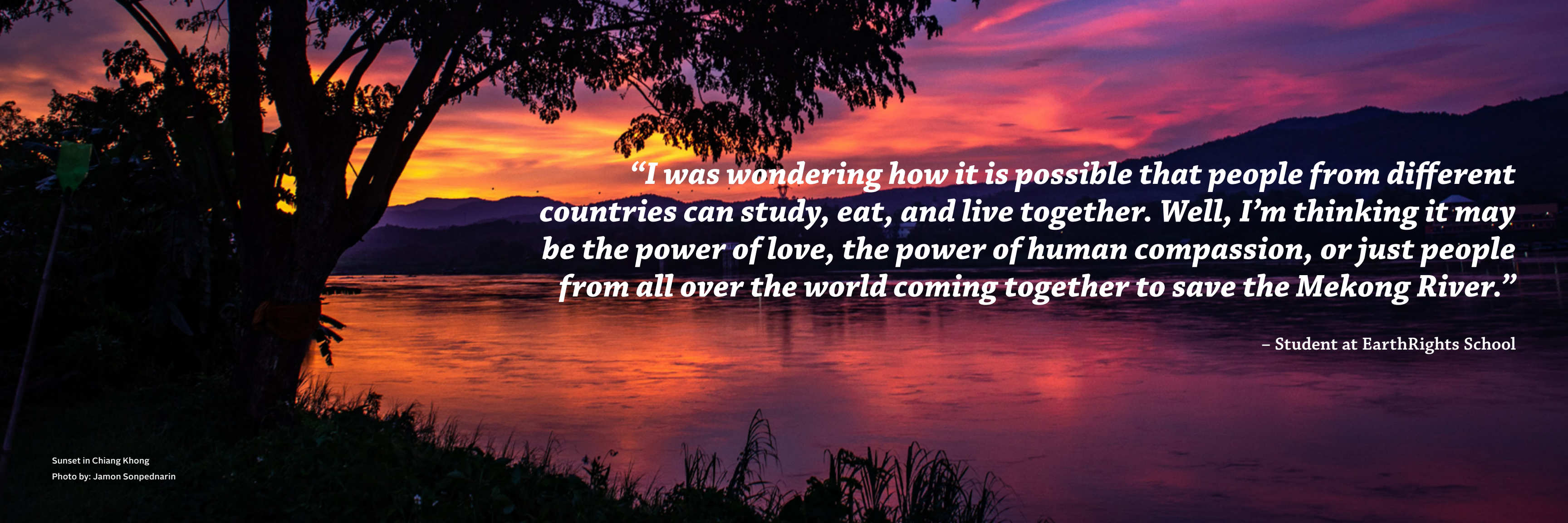
The contracts affect the ability of the police to be impartial and independent,

as they favor the companies’ interests, endangering indigenous communities that live in the areas where these projects take place. Some of the most prominent mining companies are Southern Copper Perú, Yanacocha Mining, Antamina, and Chinalco.

In partnership with EarthRights, Peruvian human rights organizations are demanding that the State annul these contracts as part of its commitment to the respect and guarantee of human and territorial rights. To help achieve this goal, we presented a lawsuit against the Peruvian government on April 8 with the Legal Defense Institute.

# Earth Rights Defender



A wide-angle photograph of a sunset over a river. The sky is a mix of orange, pink, and purple. The sun is low on the horizon, casting a warm glow. In the foreground, a large tree with dark leaves is silhouetted against the bright sky. The river reflects the colors of the sunset. In the background, there are dark, silhouetted mountains.

***“I was wondering how it is possible that people from different countries can study, eat, and live together. Well, I’m thinking it may be the power of love, the power of human compassion, or just people from all over the world coming together to save the Mekong River.”***

– Student at EarthRights School





# Mega-Projects

Despite increasing global attention to the threats posed by climate change and environmental degradation, multi-billion dollar “mega-projects” continue to be corporations’ preferred method of exploiting natural resources.

Mega-projects have proved, again and again, to be extremely risky. Human rights are regularly trampled in the rush to build large dams, mines, oil and gas pipelines, ports, highways, railways, and forest-destroying agribusiness projects.

These types of projects are consistently associated with high levels of corruption and human rights abuses, making them especially dangerous for Earth Rights Defenders.





# We helped communities file a lawsuit to protect the Marañón River in Peru

In May 2018, in partnership with EarthRights and the Legal Defense Institute, communities in Peru affected by the Chadín 2 Hydroelectric Project filed a constitutional request for protection of the Marañón River.

The Chadín 2 project would dam the waters of the Marañón River, creating a reservoir of 12.54 square miles (32.5 square kilometers) and flooding the

surrounding lands. At least 1,000 people living in Cajamarca and Amazonas would be displaced and would suffer irreparable damage to their ecosystem.

The construction of this dam is part of a larger complex that includes more than 20 planned dams on the Marañón River, one of the major tributaries of the Amazon River.

Press conference on the protection of the Marañón River

# We supported communities in raising concerns about the Hatgyi Dam in Myanmar

The Hatgyi Dam is a proposed hydropower project on the Salween River in Myanmar, less than 50 kilometers from the Thai border. More than 10 million people rely on the river for their livelihoods. If built, the Hatgyi Dam would put many of them in jeopardy, as it will significantly impact agriculture and fish migration. EarthRights has partnered with the affected communities, including many indigenous groups, by supporting their campaigns to participate in decision-making around the project, to access information, and to build their capacity to organize effectively.

In 2018, we supported Salween communities as they demanded stronger public participation in the Environmental Impact Assessment and transboundary studies, and we joined the Salween People Network and

Salween Watch Coalition to support their campaigns against destructive dams.

EarthRights' leadership-building activities have contributed to a growing youth movement that is standing up for the rights of their communities. In 2018, a new youth group—the Salween Youth Network—formalized with a focus on the environment. They played a key role in organizing the 2019 International Day of Action for Rivers event along the Salween and have already received their own funding to conduct research on the concerns of youth about the Hatgyi Dam.







# Land Rights

Land supports the livelihoods of billions of people. Earth Rights Defenders working on land issues have experienced growing levels of repression.

Large agribusiness projects – especially those that involve “land grabbing” – have resulted in countless human rights abuses to indigenous peoples and other natural resource-dependent communities. Human rights violations arise out of violent seizures of land, acts of torture and murder by security forces on behalf of companies, loss of land and property without adequate replacements, involuntary resettlement, and the poisoning of land and water by unchecked industrial activities.



## We defended the “33 Farmers” of Myanmar

We supported the 33 farmers whose land was seized in 1996 as part of the same government land grab that established the Thilawa Special Economic Zone. In 2014, the Myanmar Economic Corporation, controlled by the Myanmar military, filed a criminal trespass complaint against the

farmers.

We have defended the farmers and supported their claims for compensation. They were convicted of trespassing in May 2018, despite clear evidence that the formal land acquisition process did not start until 2015, after the trespass complaint was

made.

After the District Court rejected the farmers' request for an appeal in June 2018 without giving reasons, it is extremely encouraging that in October 2018, the Yangon High Court accepted an application to hear the farmers' case. We continue to support them.



33 Farmers

## We began pursuing accountability for oil spills in the Amazon

EarthRights supports the Wampis indigenous people, who are currently among those most severely affected by oil spills in the Peruvian Amazon. In 2017, GeoPark, a Latin American oil and gas exploration company, began preliminary efforts to exploit Lot 64, located in Wampis territory in northern Peru. Lot Project 64 is a \$200 million-dollar project located in the Marañón river basin, an area of almost 3,000 square miles. There have already been two oil spills there—in 2005 and 2011.

The project's environmental impact assessment is faulty: it has numerous errors and omissions of information about the dangers to the lives and livelihoods of nearby indigenous communities.

EarthRights provides capacity building, conducts fact-finding, and advocates for interventions by the Peruvian Government and the Inter-American Commission on Human Rights.

## We provided strategic advice to protect indigenous peoples living in voluntary isolation

Through legal actions, training, and advocacy projects, EarthRights supports the work of the Native Federation of the Madre de Dios River and its tributaries (FENAMAD), a Peruvian indigenous federation that advocates for the rights of the indigenous peoples living in voluntary isolation.

In defense of their ancestral territories, indigenous defenders are forced to face off with the Peruvian government because of infrastructure

projects (roads), extractive projects (mining and hydrocarbons), hydroelectric projects, and logging. They also face the direct consequences of these harmful projects, including pollution, spread of diseases, forced contact because of tourism, religious missionaries, and others.

In 2018, EarthRights advised FENAMAD in a contentious case and on precautionary measures taken upon the Inter American Human Rights Commission for the protection of the First Contact and Isolated Indigenous Populations of Mashco-Piro, Yora, and Amahuaca.





Dawei

## We monitored abuses in Myanmar's Special Economic Zones

We continued working with communities living in and around Myanmar's three special economic zones (SEZs)—Thilawa, Dawei, and Kyauk Phyu—to monitor environmental harms, raise awareness, conduct advocacy campaigns, and provide support as they engage with the government and corporate stakeholders. In October, we co-organized the annual Myanmar SEZ Watch Forum, a one-day conference that brings together key stakeholders to discuss and raise awareness about issues related to Myanmar's SEZs. The conference was a success; over 180 people attended, nearly double the projected number. The conference also received significant media exposure, particularly surrounding the release of a report documenting the impacts of SEZs.

This event reinforced the findings of a report released by the UN Special Rapporteur on Myanmar in August 2018, which highlighted issues associated with SEZs, including land-grabbing and inadequate access to remedy. EarthRights provided input into this report.

***“When people describe [human rights] abuses to me, they are also talking about problems that are connected to the environment: the boys and girls who are ordered at gunpoint to work on a logging road after their village has been forcibly relocated; the sherman who lost his livelihood when international trawlers forced him out of the Andaman Sea... Those of us who have been dedicated to protecting humans and those who have focused on the environment must recognize that we work at cross-purposes if we do not work together.”***

***- Ka Hsaw Wa, Co-founder and Executive Director***







# School and Training

EarthRights School students participated in Forum Theatre, an interactive exercise to help them learn about Free, Prior and Informed Consent (FPIC).





The Mitharsuu Center for Leadership and Justice opened in June 2017 in Chiang Mai, Thailand.

## Our EarthRights School fostered human rights leadership in the Mekong Region

This year, we taught a class of 15 students at our brand new Mitharsuu Center for Leadership and Justice. The updated curriculum included a new series of classes focused on identifying and understanding the root causes of earth rights abuses.

Focus then turned to the global themes of Earth Rights Defenders, mega-projects, land rights, extractive industries, climate change, and corporate accountability. Our students improved their skills around gender analysis, public speaking, making presentations, and supporting peacebuilding. They also learned about the importance and use of Free Prior Informed Consent (FPIC) in the work they will be doing.

## We began to expand our educational programs to a global audience

For years we've considered ways to replicate and share the wealth of knowledge from our EarthRights School. In 2018, we held two co-creative, collaborative "School in a Box" sessions aimed at identifying key components of the EarthRights School approach that could be adapted in different contexts. These sessions generated rich data, which School in a Box then used to make decisions about moving forward.

In the second half of the year, we produced three videos to use to share the EarthRights school model with others. The video project allowed us to reconnect with alumni and reignite conversations about measuring the impact of the transformations that take place in the school.

In 2019, School in a Box will host a Global Learning Exchange that will

bring together experts in activist training programs, people and organizations looking to start or enhance their own training programs, and alumni who work in training capacities for an exchange of knowledge and experience. The goal of this exchange will be to build the movement of earth rights defender education practitioners and explore possible further collaborations.





Participants in the 2018 Seminar in Perú

## We connected public interest lawyers in Latin America with indigenous defenders

The Latin American Seminar on Indigenous Legal Defense continues to be a fundamental part of our Amazon program's strategy for increasing the capacity and connectivity of lawyers—especially indigenous defenders in the region.

This June marked the fourth edition of the seminar, and included leaders, attorneys, and indigenous lawyers from Mexico, Chile, Guatemala, Bolivia, Colombia, Ecuador, Paraguay, and Peru. We explored two cross-cutting topics: gender and defense of defenders.

## We trained public interest lawyers through the Mekong Legal Advocacy Institute

The Mekong Legal Advocacy Institute (MLAI) is EarthRights' annual, two-week intensive training program for junior lawyers from the Mekong region who share our desire to use the law and legal advocacy as tools for human rights and environmental justice.

Currently, we have an extensive regional network of 76 MLAI alumni, many of whom became part of the Mekong Legal Network. In August 2018, MLAI brought together 17 young public interest lawyers and community legal and policy advocates from Myanmar and the Mekong region. MLAI trainees spent two weeks learning about the concept of earth rights, basic international law, environmental impact assessments, land law, indigenous rights, international financial institutions, and

transboundary issues.

This year's session was planned around the Mekong Legal Network meeting so that the two groups of lawyers, one junior and one senior, could connect with each other. MLAI students also had the opportunity to participate in the Forest Defenders workshops at the Mitharsuu Center, which helped to ground the students' learning in the broader regional context.

## The Mekong Legal Network is almost ten years old

Established almost ten years ago, the Mekong Legal Network (MLN) is a member-driven collaboration of 23 senior environmental justice lawyers (including EarthRights lawyers) working in the Mekong region. It is an action-oriented network that provides a place to innovate and strategize. EarthRights continued to collaborate with members of this network in our campaigns across the Mekong region in 2018



Mekong Legal Network member, Laofang Bunditderdsakul



# 2019 Sneak Peek

## Stopping U.S. corporations' use of abusive lawsuits against environmental activists

We can safely say that 2019 started out with a bang. A Canadian logging company—Resolute Forest Products—tried to use the U.S. Racketeer Influenced and Corrupt Organizations Act, an anti-mafia racketeering law, to seek hundreds of millions of dollars in damages from environmental nonprofit organizations Greenpeace and Stand.earth.

In January, a federal judge rejected the company's dangerous attempt to stifle the free speech rights of environmental and social justice activists. Greenpeace, Stand.earth, and other environmental organizations have waged a long campaign to

improve the company's environmental practices in Canada's boreal forest. EarthRights assisted with their legal defense.

In February, a federal judge dismissed a similar, sprawling racketeering lawsuit filed against Krystal Two Bulls, an Oglala Lakota and Northern Cheyenne organizer, Greenpeace, and others, by Energy Transfer—the corporation behind the controversial Dakota Access Pipeline. While the company has since re-filed in state court, as part of its continued intimidation campaign, we are confident that this abusive lawsuit will once again be dismissed.

## EarthRights' historic Supreme Court win: World Bank Group is not above the law

In February 2019, the U.S. Supreme Court decided in *Budha Ismail Jam, et al v. IFC* that international organizations like the World Bank Group do not have absolute immunity from suit in U.S. courts.

The Court's decision marks a defining moment for the IFC – the arm of the World Bank Group that lends to the private sector. For years, the IFC has operated as if it were above the law, at times pursuing reckless lending projects that inflicted serious human rights abuses on local communities, and then leaving the communities to fend for themselves.

## Seeking justice for victims of the banana industry's bloody history

Thousands of Colombians whose family members were murdered and tortured by Chiquita-funded death squads are seeking justice from the banana giant.

For years, Chiquita made regular payments totaling more than \$1.7 million to paramilitary death squads of the United Self-Defense Groups of Colombia, or AUC, a brutal organization known for mass killing and designated by the U.S. government as a terrorist organization. Using funds provided by Chiquita, AUC paramilitaries terrorized local communities in Colombia's banana-growing regions.

Chiquita admitted to its payments to the AUC and has already been convicted of a U.S. federal crime; the company paid a \$25 million fine to the U.S. Government. Despite this fine, Chiquita has made no effort to compensate or otherwise assist the thousands of people whose family

members were murdered by Chiquita-funded death squads.

Thousands of these survivors have sued Chiquita in the United States, in several lawsuits, including a class action complaint brought by EarthRights.

Our lawsuit against Chiquita and several of its former executives is proceeding toward trial, scheduled to start in October 2019.





|  | Without donor<br>restrictions | With donor<br>restrictions | Total               |
|--|-------------------------------|----------------------------|---------------------|
| <b>REVENUE AND OTHER SUPPORT</b>             |                               |                            |                     |
| Foundation Grants                            | \$ 321,413                    | \$ 4,191,033               | \$ 4,512,446        |
| Individual Contributions                     | 142,463                       | -                          | 142,463             |
| Investment Income                            | (138,220)                     | (6,537)                    | (144,757)           |
| Other  | 8,050                         | -                          | 8,050               |
| <b>NET ASSETS RELEASED FROM RESTRICTIONS</b> |                               |                            |                     |
| Satisfaction of Program Restrictions         | 4,036,588                     | (4,036,588)                | -                   |
| <b>TOTAL REVENUE AND OTHER SUPPORT</b>       | <b>\$ 4,370,294</b>           | <b>\$147,908</b>           | <b>\$ 4,518,202</b> |
| <b>EXPENSES</b>                              |                               |                            |                     |
| Program Expenses                             |                               |                            |                     |
| Legal  | \$ 2,045,191                  | \$ -                       | \$ 2,045,191        |
| Advocacy Campaigns                           | 763,928                       | -                          | 763,928             |
| EarthRights Schools                          | 319,997                       | -                          | 319,997             |
| International Cross-Cutting                  | 477,299                       | -                          | 477,299             |
| Total Program Expenses                       | 3,606,415                     | -                          | 3,606,415           |
| Management and General                       | 233,401                       | -                          | 233,401             |
| Development                                  | 383,269                       | -                          | 383,269             |
| <b>TOTAL EXPENSES</b>                        | <b>4,223,085</b>              | <b>-</b>                   | <b>4,223,085</b>    |
| Change in Net Assets                         | 147,209                       | 147,908                    | 295,117             |
| <b>NET ASSETS, BEGINNING OF YEAR</b>         | <b>4,194,386</b>              | <b>4,080,134</b>           | <b>8,274,520</b>    |
| <b>NET ASSETS, END OF YEAR</b>               | <b>\$ 4,341,595</b>           | <b>\$ 4,228,042</b>        | <b>\$ 8,569,637</b> |

*EarthRights International (ERI) is a nonprofit organization that combines the power of law and the power of people in defense of human rights and the environment. ERI is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. This Statement of Activities is excerpted from ERI's audited financial statements, prepared by Gelman, Rosenberg & Freedman for the year ending December 31, 2017.*







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