

# CIEL

CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW



2005 ANNUAL REPORT

## About CIEL

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**T**he Center for International Environmental Law (CIEL) is a nonprofit organization that uses international law, institutions, and processes to protect the environment, promote human health, and create a just and sustainable world. CIEL was founded in 1989 by a few dedicated international lawyers—and has since grown into one of the most respected public interest law firms in the world.

CIEL provides a wide range of services to clients and partners, including legal counsel, analysis, policy research, advocacy, education, training, and capacity building. Clients and partners include individuals and communities, nongovernmental organizations, intergovernmental organizations, and national governments. Throughout its history, CIEL has played a leadership role in establishing a firm foundation of legal analysis to strengthen progressive efforts by civil society. CIEL has observer or similar status at many intergovernmental organizations, as well as with several multilateral environmental agreements—ensuring that we are consistently involved in critical international legal developments and processes as they take place.

CIEL's 19-person staff (including nine lawyers) is based in Washington, D.C. and Geneva, Switzerland. We also have staff in Berkeley, California and New Delhi, India. During the period covered by this report, CIEL's staff, law fellows, and interns have included nationals from Argentina, Cameroon, Canada, Chile, India, Indonesia, Japan, Mexico, Peru, the Philippines, Sweden, Switzerland, and the United States. CIEL's staff has a breadth of experience working in the nongovernmental sector, private legal practice, business, government, and teaching. The varied backgrounds, educations, experiences, and perspectives of CIEL's staff merge to create the ideal circumstances in which creative, effective legal and policy analysis can be generated and applied.

CIEL program work falls into four strategic areas:

1. Protecting the global environment and human health
2. Reforming international economic law, policy, and institutions
3. Promoting human rights and environmental justice
4. Strengthening expertise and capacities in environmental law

These strategic areas reinforce each other with common themes and related activities and are further divided into a number of programs (See pages 3–10 for more information on CIEL activities and accomplishments in these four areas, as well as our website: [www.ciel.org](http://www.ciel.org)).

CIEL believes that the rule of law, including international law, is critical to forge an appropriate balance between environmental protection, human rights, social equity, and economic growth. We are strong advocates of transparency, public participation, and accountability in decision-making. In all aspects of our work, we are committed to equity, diversity, and the elimination of all types

of injustice. As lawyers for the global environmental community, we work to create a just and sustainable society for both ourselves and future generations. We invite you to join us!





# Letter from the President

DEAR FRIENDS,

**THE CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW** continues to play a unique and essential role in protecting human health and the environment, as well as in preserving human rights and achieving sustainable development. Utilizing international law, institutions, and processes—and working effectively with partners around the world—we have made significant accomplishments in all of our strategic program areas over the past year. Some of these achievements are highlighted in this annual report; more details are available on our website at [www.ciel.org](http://www.ciel.org). As these accomplishments make clear, CIEL has worked very effectively at the global, regional, national, and community levels.

Last fall, two persons integrally involved with CIEL were recognized for their work: CIEL Trustee Delphine Djiraibe received the 2004 Robert F. Kennedy Human Rights Award for her efforts promoting the human rights of the Chadian people, and CIEL Advisor Wangari Maathai received the 2004 Nobel Peace Prize for her work with the Green Belt Movement in Kenya and elsewhere. The latter, in particular, is a clear sign of the growing recognition that the environment makes up the true infrastructure of society and that it must be protected for the sake of our economies, cultures, health, and security.

It is nevertheless also clear that serious challenges to human health and the environment, human rights, and sustainable development remain. Despite the entry into force of the Kyoto Protocol on **climate change**, the United States is doing very little to address the problem, other industrialized countries still have much to do, and developing countries have not yet adopted policies that will curb their net emissions of greenhouse gases.

The situation with respect to **chemicals** is also dire: the European Union is considering a safer and more comprehensive regulatory regime, but the United States and several other countries are expending considerable energy trying to block that effort and to limit other necessary measures. **Biodiversity** continues to decline at an alarming rate, and much needs to be done to effectively integrate **local communities** into conservation efforts. Contributing to the decline in biodiversity is the severe crisis that threatens the oceans caused by overfishing and pollution.

**Biotechnology and nanotechnology** raise serious issues that neither international nor do-

mestic legal systems are prepared to face. **Human rights, including women's and children's rights**, must be recognized and protected. **Trade and investment** "liberalization" is proceeding in a manner that does not adequately take into account the environmental, social, and even economic aspects of sustainable development. Increasing levels of protection for **intellectual property** constrict the ability of national governments to ensure access to knowledge and essential goods. **International financial mechanisms** (both public and private) have progressed, but much remains to be done. **International dispute settlement mechanisms** remain, for the most part, non-transparent, non-participatory, and non-accountable—they must be democratized.

CIEL is involved in efforts to overcome each of these challenges, as well as others. Public interest law is one of the best tools to avoid disputes, mediate conflicts, protect the environment and human health, defend human rights, and promote sustainable development. Participation by civil society is absolutely essential if environmental and health concerns are to be respected. The Earth and its people need new and more effective legal advocacy, stronger legal theories appropriate for today's globalizing world, more and better-trained environmental lawyers, and more effective international laws and institutions. CIEL is uniquely positioned to help achieve these goals.

We depend on the generous support of individual donors and institutional funders to carry out our work. Together with everyone else in the CIEL family, I want to sincerely thank each person who has supported us in the past and invite your support for dealing with the challenges that still lie ahead. We all look forward to working with you to make our world healthier and more just.

With much appreciation,



Daniel B. Magraw, Jr., J.D.  
President



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## A Glimpse of History

The Center for International Environmental Law (CIEL) was conceived in April 1989 by four international lawyers at the Tabard Inn, a small, appropriately intimate meeting place frequented by Washington's nonprofit community. "Even before the second bottle of wine was finished," said Durwood Zaelke, "we knew what we needed to do. The scholarly and formal field of international law and diplomacy needed to join forces with the public interest advocacy movement." The four lawyers soon decided to form a new organization specializing in international environmental law. The group would embrace all the relevant players—not only sovereign states, but also NGOs, individuals, and intergovernmental organizations—and, lead to new cooperation on environmental concerns that transcend national boundaries, including global warming, water pollution, and deforestation.

For the past 16 years, CIEL has worked with governments, NGOs, local communities, and other partners around the world contributing its essential legal expertise in international law, institutions, and processes. The following selected highlights illustrate the critical contributions CIEL and its partners have made since our establishment:

**1989** CIEL provides assistance to the Association of Small Island States regarding negotiation of the climate change regime.

**1990** Along with European groups, CIEL successfully lobbies the European Bank for Reconstruction and Development to become the first international financial institution with the concept of "environmentally sound and sustainable development" included in its mandate.

**1991** CIEL launches its Trade and Environment Program, with support from the U.S. Environmental Protection Agency, which continues to be a driving force for environmental protection and sustainable development.

**1992** CIEL launches the Joint Research Program in International Environmental Law with American University's Washington College of Law.

**1993** CIEL, and other groups successfully convince the World Bank to establish the precedent-setting World Bank Inspection Panel.

**1994** CIEL assists in creating Centro Mexicano Derecho Ambiental, the first public interest environmental law organization in Mexico.

**1995** CIEL and other groups persuade the Conference of Parties of the Convention on Biological Diversity to adopt recommendations for marine and coastal conservation.

**1996** CIEL pushes for greater transparency at the WTO and issues a *Handbook for Obtaining Documents from the World Trade Organization*.

**1997** CIEL, with the Center for Marine Conservation and other NGOs, submits an *amicus curiae* brief to the WTO Dispute Settlement Panel on the controversy over the killing of turtles by shrimp practices.

**1998** CIEL provides legal analysis and support to the international effort that defeats the Multilateral Agreement on Investment.

**1999** CIEL provides support to the Philippines-based Legal Rights and Natural Resources Center in a Supreme Court hearing that upheld the constitutionality of the Indigenous Peoples Rights Act of 1997.

**2000** CIEL leads a campaign to protect big-leaf mahogany under the Convention on International Trade in Endangered Species.

**2001** CIEL, along with Earthjustice and others, petitions to file an *amicus curiae* brief in the Methanex Corporation arbitration, a precedent-setting attempt to open the NAFTA arbitration process to civil society.

**2002** CIEL and Earthjustice file a petition on behalf of Bolivian partners and others in an investment dispute stemming from the "Water War" in Cochabamba, Bolivia.

**2003** CIEL assists in settling the BioBio case before the Inter-American Commission on Human Rights on precedent-setting terms that are favorable to the indigenous people being displaced by a large dam project.

**2004** CIEL co-organizes the All-Asia Public Interest Environmental Law Conference, bringing together more than 50 public interest lawyers from around the region.

**2005** CIEL obtains the first ruling from an investment arbitration panel operating under the rules of the International Centre for the Settlement of Investment Disputes (ICSID) that establishes the panel's authority to accept *amicus curiae* briefs despite objections from disputing parties.

Over the years, CIEL and its partners have had many other remarkable achievements. None of this would have been possible without our wonderful, committed supporters.

## Programs and Activities

### PROTECTING THE GLOBAL ENVIRONMENT AND HUMAN HEALTH

CIEL carries out a broad range of projects designed to protect the environment and human health. Major areas of focus include chemicals, climate change, biodiversity and wildlife, biotechnology, and children's health. Our efforts are designed to achieve on-the-ground progress in these areas by developing and implementing international law, strengthening international institutions, and taking advantage of ongoing international processes. We typically undertake projects in conjunction with partner organizations around the world, providing them with the international legal expertise needed to complement their own energy, skills, and other resources, to learn from their experiences, and to enhance CIEL's work.

#### CHEMICALS

CIEL's Chemicals team consists of legal, scientific, and technical experts who work on critical chemical safety and management issues at the international and domestic levels. For example, at the request of the secretariat for the Rotterdam Convention on Prior Informed Consent and the Swiss Government, the team prepared two important studies in 2005. One study reviewed and evaluated the ways that environmental agreements provide financial assistance to developing countries and outlined options for consideration by Parties to the Rotterdam Convention. The other study gives a comprehensive overview of principles and approaches in international chemicals management, including proposed text for inclusion in the Strategic Approach to International Chemicals Management (SAICM), the international community's negotiation document to achieve sound chemicals management. As official documents of the Rotterdam Convention and the SAICM, respectively, these studies established the foundation for discussion at two critical, emerging areas of international chemical safety policy, and thus allowed CIEL to influence the direction of the debates from their onset.

On the domestic level, CIEL co-organized an intensive strategy meeting in December, 2004 in Seattle, Washington. At this meeting, more than 60 grassroots, state, national, and international activists discussed the principles and long- and short-term goals that will guide the civil society campaign for fundamental reform of U.S. chemicals policy. CIEL helped develop the meeting

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agenda and background materials, chaired key break-out sessions, shared experiences of leading the nongovernmental organization (NGO) campaign on U.S. ratification of the Stockholm Persistent Organic Pollutants (POPs) Convention, and explained the relevance of international initiatives (such as the SAICM and the European Union's REACH proposal on domestic policy reform). CIEL's efforts heightened awareness among U.S. activists of how national and international reforms are interconnected, and helped link U.S. reform targets to the 2020 chemical safety goal of the SAICM and World Summit on Sustainable Development.





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A key player on the CIEL Chemicals team is also the International Coordinator for the International POPs Elimination Network (IPEN), a network of 350 NGOs (located mostly in the Global South) working on chemical safety issues. The International Coordinator organized IPEN's participation in the Stockholm Convention's first Conference of the Parties (COP1) in Uruguay in May 2005. His efforts included facilitating IPEN's General Assembly, where 52 activists from 26 countries convened to fine tune IPEN policy and strategy immediately prior to COP1. He also co-edited IPEN's special magazine, *The Dirty Dozen: Keep the Promise*, which helped convince COP1 delegates to agree with IPEN's perspectives on several key issues, including rules for dioxin inventories and emissions.

## CLIMATE CHANGE

CIEL's Climate Change Program strives to protect the Earth's climate system while promoting forest conservation, biodiversity protection, and human rights. In the Arctic, global warming has caused sea ice to thin and retreat, making hunting dangerous and exposing Inuit villages

to grave harm from storms and erosion. Thawing permafrost has caused buildings to collapse, roads to buckle, and trees to topple. Soon the Inuit, the native people of the region, will be forced to evacuate their ancestral homelands and relocate further inland. The impact on the Inuit has been so devastating as to constitute a violation of human rights, including the rights to life and property.

During the past year, CIEL and two partners, the Inuit Circumpolar Conference and Earthjustice, have made substantial progress in preparing a petition on behalf of the Inuit to be filed in the Inter-American Commission on Human Rights. The petition criticizes the United States for causing global warming by failing to curtail its greenhouse gas emissions. The central purposes of the petition are to ratchet up legal and political pressure on the United States to take action on global warming, to increase public awareness about this urgent problem, to improve the conditions of the Inuit people, and to add a moral and human rights dimension to the climate change debate.

Progress has already been made toward these goals. In June 2005 at a Group of 8 summit event, Mary Robinson, former United Nations High Commissioner on Human Rights, recommended that human rights litigation be considered if countries do not act to curb greenhouse gas emissions. As part of this program, CIEL worked with members of the U.S. Congress to thwart an effort by the U.S. Administration to suppress findings in the Arctic Climate Impact Assessment Policy Report, which concluded that the Arctic is already experiencing major effects of global warming. CIEL's work on these and other climate change issues will continue.



## BIODIVERSITY AND WILDLIFE

Because CIEL recognizes that the effective protection of biodiversity requires paying close attention to social dynamics and concerns, we focus on issues that reflect the linkage between biodiversity and human rights. Specifically, CIEL works to gain greater recognition and implementation of the right of indigenous peoples and other local communities to give "prior informed consent" (PIC) for activities that affect the natural resources they use or occupy. Without such consent, biodiversity protection, equitable treatment, and political stability—all requirements for sustainable development—cannot be achieved.

CIEL has made significant progress on promoting PIC in different contexts. At numerous conferences and workshops (including the 2004 meeting of the Convention on Biological Diversity in Malaysia), we have raised awareness of the right to PIC and helped identify ways to address obstacles to its implementation. Our publications have been used as guiding documents at global workshops on intellectual property and genetic resources.

CIEL has also been a leader in promoting the recognition and implementation of PIC for indigenous peoples and other local communities at the International Finance Corporation (IFC)—a step that would help reduce the harmful environmental and social impacts of international financial institution lending programs. As a result, the IFC is likely to expand its policy requiring that "broad community support" (which is similar to PIC) be secured from indigenous peoples in order to include local communities in decision-making on high-risk lending situations.

CIEL has also worked to address the implementation of PIC in connection with protected natural areas and a state's right to act in the "public interest," and has helped identify "best practices" through case studies.

In addition, CIEL works to ensure that trade and intellectual property rules adequately support the objectives and provisions of the CBD. In particular, CIEL conducted research and analysis to support developing country and civil society participation in World Trade Organization (WTO) discussions to increase the mutual supportiveness of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and the CBD. CIEL also presented comments to the



World Intellectual Property Organization (WIPO) as it was preparing a response to a CBD request for information on disclosure requirements and intellectual property applications.

## BIOTECHNOLOGY

Although genetic modification (the process through which an organism is modified by the application of recombinant DNA technology) promises important benefits to society, it also poses serious risks. CIEL works to shape and implement an international legal regime to allow societies to realize the potential benefits of biotechnology while simultaneously protecting biodiversity, local communities, and human health.

In particular, CIEL has taken a leading role in ensuring that trade rules adequately address the uncertainty associated with genetically engineered organisms. For example, in May 2003, the United States, Argentina, and Can-

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ada initiated a World Trade Organization case against the European Union for the application of its regulations on agricultural biotechnology products. One of the critical issues raised by the case is the application of WTO provisions to recognition of the environmental “precautionary approach” in the biotechnology context. Genetic modification inevitably involves significant scientific uncertainty that is relevant to regulators, consumers, and citizens, but which had not been adequately recognized by the parties in this case. CIEL, together with several partners, submitted an amicus curiae brief in the WTO

case, highlighting the technological and environmental uncertainties of genetic modification and how they relate to WTO rules, particularly provisions that reflect the precautionary approach. The amicus curiae brief received overwhelmingly positive feedback from civil society groups and was expressly addressed by parties to the case in their official submissions. A decision by the WTO Panel is expected in early 2006. CIEL will continue to participate in this and related WTO cases.

### CHILDREN’S HEALTH

At least three million children under the age of five die annually because of environment-related illnesses. Children suffer disproportionately from environmental problems (such as polluted air and water) because they ingest and absorb more toxins than adults on a weight-basis ratio, have less mature immune systems, and have fewer legal rights and abilities to influence the structures and routines that determine their daily lives.

Yet activists, health workers, and officials from governmental and intergovernmental organizations are frequently unaware of how international laws and institutions can be leveraged to protect children’s health. To help remedy this situation, CIEL provides information and education on this important issue.

CIEL took a major step toward increasing awareness by producing a guide titled *Using International Law and Institutions to Protect Children’s Health*. Working in collaboration with Physicians for Social Responsibility and with funding from the U.S. Environmental Protection Agency, CIEL created a framework for identifying and better understanding the international tools and avenues available for action by individuals, health practitioners, civil society, and governmental and intergovernmental organizations that care about protecting children from environmental threats. CIEL is working to ensure that this publication is disseminated broadly in several languages.

## REFORMING INTERNATIONAL ECONOMIC LAW, POLICY, AND INSTITUTIONS

As investment, services, and goods move increasingly freely across borders, CIEL’s Trade and Sustainable Development Program works to ensure that economic rules do not unduly restrict the ability of countries to protect health, safety, and the environment. CIEL is therefore working toward a system of international governance that promotes respect for economic, social, and environmental goals and meets the needs of people without undermining the capacity of future generations to meet their own needs—the essential meaning of sustainable development.

By integrating efforts on the local and global levels, CIEL seeks to ensure that on-the-ground progress toward sustainable development is supported rather than undermined by international economic law, policies, and institutions. CIEL’s International Financial Institutions Program is working with the World Bank Group, regional development banks, and export credit agencies to increase transparency and accountability and to ensure that their activities respect the rights of local communities and protect the environment, health, and human rights.

### TRADE AND SUSTAINABLE DEVELOPMENT

**REGIONAL TRADE AGREEMENTS** – RTAs, including bilateral trade agreements, constitute the fastest growing area of international trade law. Industrialized countries increasingly pursue the “liberalization” of trade in goods, services, investments, and intellectual property outside of the multilateral framework of the World Trade Organization. As a result, the content and functioning of RTAs affect the lives and livelihoods of billions of people around the world and determine the achievement of sustainable development objectives. Increasing the awareness and participation of civil society in the negotiation and implementation of RTAs is essential to ensuring that such agreements are balanced and equitable.

Beginning with the North American Free Trade Agreement (NAFTA) in the early 1990s, CIEL has a long history of monitoring and influencing RTA negotiations. In the past year, CIEL has worked with negotiators and both nongovernmental and intergovernmental organizations to address RTA developments across the globe. Among other things, CIEL actively engaged in debates over the Central America and Andean Free Trade Agreements through briefings with members of the U.S. Congress, sign-on letters, and policy analysis. CIEL has also participated

in capacity-building programs on RTAs organized by the United Nations Economic Commission for Latin America and the Caribbean (ECLAC). In addition, CIEL helped the Organisation for Economic Co-operation and Development (OECD) to identify environment-related aspects in RTAs from all regions of the world.

CIEL will continue working to strategically and systematically integrate environmental protection and social development considerations into the international economic framework. CIEL will also work to make the negotiating and dispute settlement procedures of RTAs more transparent and to expand public participation in these processes.

**INTELLECTUAL PROPERTY AND SUSTAINABLE DEVELOPMENT** – CIEL works to create an international intellectual property system that promotes sustainable development and adequately balances private and public interests. The Intellectual Property and Sustainable Development Project aims to enhance the participation of developing countries and civil

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Property Rights (TRIPS) Agreement. The goal of the project is to evaluate different approaches to enhance the participation and influence of developing countries in these negotiations and thus promote a more balanced outcome. In particular, CIEL will conduct research and organize meetings to provide relevant information to different stakeholder groups in developing countries and to facilitate interaction between stakeholders in both developed and developing countries.

#### INVESTMENT: DEMOCRATIZING THE INTERNATIONAL DISPUTE SETTLEMENT PROCESS

More than 2,000 investment treaties authorize state-to-state dispute settlement, and many of these also authorize private investors to bring international arbitral cases against host country governments—representing one of the largest shifts in power since World War II. Almost all of these arbitrations take place in a handful of international systems, which suffer from a serious deficit with regard to democracy: it is difficult and often impossible for the public to know that an arbitral proceeding is underway, what issues it raises, what arguments the parties are making, and what rulings—including the final decision—are made by the arbitral tribunal. Because of this situation, CIEL is working to democratize international arbitral institutions, with a focus on transparency, public participation, and accountability.

On May 19, 2005, a tribunal operating under the auspices of the International Centre for the Settlement of Investment Disputes (ICSID) ruled for the first time that it has the power to accept amicus curiae briefs from civil society organizations, regardless of objections from involved parties. (CIEL and its partners had obtained a somewhat similar ruling from an arbitral panel operating under the rules of the United Nations Commission on Trade Law, but in that case the parties did not raise objections). CIEL has also been involved in filing amicus curiae briefs at the World Trade Organization.

The ICSID tribunal's decision came in response to a petition for transparency and public participation presented in January, 2005 by CIEL and the Centro de Estudios Legales y Sociales (CELS) and other human rights organizations in Argentina. In the petition, CIEL and its Argentine partners highlighted the public interest issues raised in the dispute, which focused on the provision of water and sewage disposal service in Bue-

nos Aires, Argentina. The Suez/Vivendi Tribunal recognized that virtually all cases of investment treaty arbitration under ICSID involve matters of public interest. The tribunal stated that "These systems provide basic public services to millions of people and as a result may raise a variety of complex public and international law questions, including human rights considerations." With this progress as a basis for action, CIEL will continue to pursue strategies to democratize the international dispute settlement system.

#### INTERNATIONAL FINANCIAL INSTITUTIONS AND EXPORT CREDIT AGENCIES

**EXPORT CREDIT AGENCIES: OPIC'S ACCOUNTABILITY MECHANISM** – Export Credit Agencies (ECAs) are national entities that finance, guarantee, or insure trade and investment transactions. ECAs influence a tremendous proportion of the total flow of international capital, yet very few have adequate environmental and social policies, or accountability mechanisms through which individuals or communities can complain that projects funded by the ECA harm them.

The United States has two ECAs: the Export-Import Bank and the Overseas Private Investment Corporation (OPIC). CIEL and its partners were successful in convincing OPIC to create an accountability mechanism, the Office of Accountability. This new office provides local communities that may be adversely impacted by OPIC-funded projects with a means to raise concerns and hold OPIC accountable for the negative impacts of its actions and policies.

CIEL's analysis and advocacy efforts—conducted in collaboration with nongovernmental organization partners—were key to the creation of this mechanism, and constitute the latest chapter in CIEL's long record of promoting the creation, utilization, and continued viability of accountability mechanisms at international financial institutions and ECAs.

**INTERNATIONAL FINANCIAL INSTITUTIONS: THE WORLD BANK'S "COUNTRY SYSTEMS APPROACH"** – This past year, CIEL was a key player in a successful global campaign to strengthen and prevent the weakening of the World Bank's and International Finance Corpora-

tion's (IFC) environmental and social standards. The World Bank proposed to replace its mandatory policies with a combination of flexible principles and national standards, ostensibly in order to streamline the project development and approval process and to shore up support for infrastructure projects and middle-income countries. The proposal for most public-sector lending at the Bank (referred to as the "Country Systems Approach") relies on the borrowing government's environmental and social systems rather than the full suite of policies stipulated by the Bank. National systems would therefore be compared to a highly simplified set of Bank principles and, if judged "equivalent," would be used for project preparation, implementation, and evaluation purposes.

CIEL prepared extensive and objective analyses of the approach, identifying nearly 150 ways that the new proposal would weaken and 20 ways that it would strengthen existing Bank policies. CIEL also made concrete recommendations to improve the approach to environmental and social standards, and highlighted the importance of maintaining oversight by the World Bank's accountability body, the Inspection Panel.

CIEL worked closely with partner NGOs to alert the global community, spark action, and share common concerns with the Bank. Our analyses also assisted NGOs and local communities around the world in their consultations with the Bank. As a result, the Bank staff's final report to its Board of Directors indicated that the Country Systems Approach had been modified in direct response to the CIEL analyses.



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society in international discussions on these critical issues. To this end, CIEL participates in international meetings, monitors and publicizes developments in the intellectual property arena, analyzes issues, prepares position papers for use by partners, organizes strategy and technical meetings, and conducts outreach and education.

CIEL's work on intellectual property includes a partnership with the South Centre in the context of World Trade Organization (WTO), and World Intellectual Property Organization (WIPO) negotiations. In 2005, particularly important work was conducted with respect to the WIPO Development Agenda process. CIEL strongly supported the increasing participation of developing countries and civil society that resulted in the proposal for a Development Agenda at WIPO, and actively participated in the intersessional, intergovernmental meetings convened to further examine development-related issues. In addition, CIEL comprehensively analyzed the WIPO Development Agenda discussions in the South Centre and CIEL IP Quarterly Update and other publications.

Also in 2005, CIEL initiated a new project focusing on the multitude of bilateral intellectual property negotiations. Bilateral intellectual property rules are increasingly used by the United States and the European Union to raise levels of intellectual property protection beyond those in the Trade-Related Aspects of Intellectual



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## PROMOTING HUMAN RIGHTS AND ENVIRONMENTAL JUSTICE

**T**he fundamental right to participate in decision-making processes that directly affect one's life and livelihood exists by virtue of being human—irrespective of ethnicity, religion, citizenship, geographic location, education, monetary wealth, gender, or sexual orientation. In many places, however, members of indigenous and other local communities are not able to exercise the right of participation. In addition, under national laws, many people are denied the right to control the natural resources on which they depend, regardless of how long they have lived in an area.

CIEL works to translate concerns over environmental justice and sustainable development into law and policy. Working with partners around the world, CIEL endeavors to develop, promote, and implement legal standards that protect the fundamental right to a healthy environment and ensure the participation of individuals and local communities in decision-making on the use and management of natural resources, as well as subsequent benefits.

### LAW AND COMMUNITIES

**AMPLIFYING THE VOICES OF RURAL COMMUNITIES** – The Law and Communities program promotes environmental justice by strengthening public interest environmental law institutions, supporting local communities through legal assistance and training, conducting collaborative research with partners on national and international legal issues, and articulating new legal concepts and standards that support the users of natural resources in rural areas in the Global South.

Since 1997, CIEL's Environmental Justice Project (EJP) has provided various types of legal assistance (such as training para-legals) to more than 100 indigenous and local communities participating in government-sponsored, community-based natural resource management projects in the Philippines. The EJP supports communities in securing recognition of their community-based property rights through Certificates of Ancestral Domain Titles. Training workshops in this area strengthen the ability of local organizations to manage land, forest, and marine resources, and to protect communities against the illegal exploitation of these resources.

CIEL's EJP partners help facilitate discussions among community members, local government officials, environmental officers, and others to develop, improve, and implement policies and regulations pertaining to biodiversity conserva-

tion, sustainable development, and environmental justice. On January 26, 2005, three city mayors and ten municipal mayors in the 63,000-hectare Taal Volcano Protected Landscape in the Philippines signed a covenant to signify their commitment to the conservation and sustainable development of this protected area (the event was highly publicized in the local media). The lake is a prime tourist spot and a source of livelihood for 160,000 people living around its periphery, as well as home to an endemic species of fish and the only freshwater "sea snake" in the Philippines. CIEL's EJP partner, Tanggol Kalikasan, played a key role in activities leading up to the adoption of the covenant and continues to be active in implementing it.

Also in the last year, another CIEL partner, the Environmental Legal Assistance Center (ELAC), expanded the EJP to new areas in the Philippines, including 861 hectares of a national park on the island of Leyte and 150 hectares of seagrass beds, 20 hectares of coral reefs, and 20 hectares of mangrove forests on the island of Palawan.

**COLLABORATIVE POLICY RESEARCH** – CIEL works with its partners to promote and enrich understanding of environmental justice, which lies at the core of sustainable development. In conjunction with the Environmental Justice Initiative in India, CIEL published a new book this year, *Building Bridges: North America/South Asia Conversations on Environmental Justice*. This book synthesizes the proceedings of a four-day meeting on environmental justice in Sariska, Rajasthan, India that was co-organized by CIEL. The event identified opportunities to foster collaboration between environmental justice activists in North America and South Asia. It involved candid discussions and broke new ground in articulating cross-cultural and regional perspectives on the vision, nature, and ramifications of "environmental justice." The meeting also provided a forum in which to share experiences and strategies on how to achieve environmental justice on the ground in a variety of settings.

CIEL staff edited and published a research report, *Communities, Forests, and Law in Nepal: Present State and Challenges* by Dr. Ananda Mohan Bhattarai and Dil Raj Khanal. This joint effort between the Federation of Community Forestry Users in Nepal (FECOFUN) and ProPublic, a public interest law firm in Nepal, examines community forestry laws and practices in the mountain king-



dom through the lens of environmental justice. It argues for the consolidation and expansion of the rights of local communities, and for the just and sustainable management and use of the nation's forest resources.

### CONNECTING HUMAN RIGHTS AND THE ENVIRONMENT

One of the most critical yet undeveloped areas of international law involves the relationship between preserving human rights and protecting the environment and human health. CIEL's work over the past year on the San Mateo de Huanchor case epitomizes our approach to establishing this relationship through landmark legal cases, while at the same time helping individuals and local communities to advance their rights and well-being.

The San Mateo case involves toxic mining tailings containing dangerous heavy metals (such as arsenic, lead, mercury, and cadmium) that have contaminated the water, land, and air in San Mateo, Perú. On behalf of affected persons in San Mateo and the National Confederation of Peruvian Communities Affected by Mining (CONACAMI), CIEL asked the Inter-American Commission on Human Rights (IACHR) to adopt precautionary measures to prevent irreparable harm to the life and physical integrity of the members of the community. Specifically, CIEL

*In conjunction with the Environmental Justice Initiative in India, CIEL published a new book this year, Building Bridges: North America/South Asia Conversations on Environmental Justice.*







*The San Mateo preliminary measures and admissibility decisions are the first time that the Inter-American Commission on Human Rights has ruled that pollution violates human rights, and is therefore a landmark case that establishes the inextricable relation between human rights and the environment.*

requested the immediate removal of the toxic waste and the implementation of medical assistance programs.

After assessing the case, the IACHR ruled in August 2004 that Perú should take measures to ensure the life and personal integrity of the residents of San Mateo, thereby recognizing the linkage between human rights and the environment in the context of effects of pollution on human (in particular children's) health. The IACHR also indicated that Perú should without delay establish a public health assistance program in San Mateo, prepare an environmental impact assessment (EIA) required for the removal of the toxic waste, and initiate the removal of the tailings dump once the EIA is completed.

Three months later, the IACHR further decided that CIEL's petition on the merits was legally admissible, despite the objections of the Peruvian government. The IACHR noted that the petitioners had sought administrative and judicial remedies in Perú, but that such remedies had not been effective, had not afforded residents legal protection, and had been subject to undue delay. The IACHR's decision on the petition's admis-

sibility allowed the victims of mining pollution to demonstrate the international responsibility of the Peruvian government for particular human rights violations, including the toxic poisoning of the residents of San Mateo.

The San Mateo preliminary measures and admissibility decisions are the first time that the Inter-American Commission on Human Rights has ruled that pollution violates human rights, and is therefore a landmark case that establishes the inextricable relation between human rights and the environment. The IACHR's decision on the importance of taking precautionary measures and on the admissibility of the petition further strengthens the fundamental rights to life and personal integrity of the many Peruvian communities that suffer the impact of mining contamination on their health, homes, and environment. The decision also establishes an important precedent with regard to a government's responsibility to manage toxic waste dumps that affect surrounding communities.

CIEL will continue to work on this and other cases that are critical to establishing and explaining the linkage between human rights and the environment.

## STRENGTHENING EDUCATION AND OUTREACH

Education and outreach are major, cross-cutting themes at CIEL. Staff members are guided by the principles of ecology, human rights, and environmental justice and are committed to sharing skills with and building the capacity of all people to promote positive change. All people need the legal tools to ensure that their voices are heard—this is especially true for groups that are often marginalized by legal, political, and economic forces, including indigenous and local communities, children, and women.

CIEL responds to this urgent need by fostering and continually strengthening partnerships with organizations around the world; training students, lawyers, and other professionals in the practice of environmental law; sharing skills with local communities; and harnessing technology to increase access to environmental and legal information. CIEL conducts a renowned intern and law fellows program. In 2004, CIEL welcomed its first Louis B. Sohn Fellow in Human Rights and Environment to focus on the critical and evolving relationship between these two areas—a legal arena in which CIEL has been, and continues to be, a world leader with regard to both conceptualization and practice.

*CIEL's Geneva and Washington, D.C. offices have welcomed fellows and interns from more than 43 countries.*

## RECRUITING AND TRAINING PUBLIC INTEREST LAWYERS

In light of the growing challenges faced by the environmental law and justice movement, CIEL strives to increase the pool of public interest lawyers worldwide. Over the years, CIEL's Geneva and Washington, D.C. offices have welcomed fellows and interns from more than 43 countries. Interns during the past year were from the Republic of Georgia, India, Canada, Indonesia, Japan, Nigeria, Thailand, Great Britain, and the United States.

During the fall of 2004, CIEL sponsored Indonesian lawyer Windu Kisworo from the Indonesian Center for Environmental Law (ICEL) for a two-month fellowship at CIEL. Windu engaged CIEL lawyers in discussions on environmental justice, climate change, biological diversity, trade and investment, and the effect of government-approved private mining companies on rural communities and the environment. Windu continues to work with CIEL on a paper that describes and analyzes struggles for the legal recognition of indigenous peoples' rights in Indonesia and the Philippines. This paper will be presented at the biennial conference of the International Association for the Study of Common Property (IASCP) in Bali, Indonesia, in June 2006.







In an effort to assist Indonesian lawyers to interact and share their experiences with colleagues in other nations, CIEL made arrangements for two Indonesian public interest lawyers to visit the Philippines during June and July 2004. The lawyers were immersed in an intensive English language-training course for six weeks and engaged in skills-sharing activities with colleagues from the Philippine public interest environmental law community for one week.

CIEL continues to conduct outreach at leading law schools and public interest law organizations, particularly in the Global South. We help local partners provide law and forestry students

with internships at public interest law organizations. CIEL staff frequently meets with law students to discuss career opportunities in public interest law, as well as issues related to community-based property rights (CBPRs). During the winter of 2005, CIEL staff spoke about CBPRs at three workshops on collective forestry in Fujian and Beijing, China.

## COLLABORATION WITH EDUCATIONAL INSTITUTIONS

CIEL and the American University's Washington College of Law (WCL) established the Joint Research Program for International and Comparative Environmental Law in 1990. The program provides an interdisciplinary environment for training alumni from government, business, international organizations, and non-governmental organizations. Program graduates often become leaders in the environmental law movement in their own countries and form an important informal network to support CIEL's work worldwide. The CIEL/WCL joint program also regularly presents workshops and symposia, and in 2005 actively participated in a conference on access to water as a human right. (For more information, visit the joint program's website at: <http://www.wcl.american.edu/ilsp/>)

CIEL attorneys also teach courses at the WCL, the Johns Hopkins School of Advanced International Studies, and Georgetown University Law Center, as well as lecture and lead workshops on various topics at universities and academic centers throughout the world. For example, CIEL's Law and Communities program works with the University of the Philippines Los Baños College of Forestry and Natural Resources and with the University of Beijing.

Similarly, CIEL's Geneva office maintains close contact with professors and researchers at the University of Geneva and regularly hosts interns from there and other institutions.

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# CIEL Statement of Financial Position

FOR FISCAL YEAR ENDING JUNE 30, 2005

## ASSETS

CURRENT ASSETS	
Cash & Cash Equivalents	\$746,171
Foundation Pledges Receivable (Short-Term)	830,000
U.S. Government Grants and Contracts Receivable	69,714
Foreign Government Grants and Contracts Receivable	30,016
Other Grants and Contracts Receivable	45,080
Miscellaneous Receivables	32,542
Prepaid Expenses and Deposits	34,279
<b>TOTAL CURRENT ASSETS</b>	<b>\$1,787,802</b>

OTHER ASSETS	
Foundation Pledges Receivable (Long-Term)	\$375,000
Office Equipment and Furniture	115,653
Less: Accumulated Depreciation	(101,176)
Long-Term Investments	1,028
<b>TOTAL ASSETS</b>	<b>\$2,178,307</b>

## LIABILITIES AND NET ASSETS

CURRENT LIABILITIES	
Accounts Payable	\$39,827
Accrued Employee Benefits Payable	32,056
<b>TOTAL LIABILITIES</b>	<b>\$71,883</b>

NET ASSETS	
Unrestricted Net Assets	\$437,692
Temporarily Restricted Net Assets	1,668,732
<b>TOTAL NET ASSETS</b>	<b>\$2,106,424</b>

<b>TOTAL LIABILITIES AND NET ASSETS</b>	<b>\$2,178,307</b>
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Audited financial statements are available upon request.  
Center for International Environmental Law  
Comparative Statement of Activities and Change in Net Assets  
For Fiscal Year Ending June 30, 2005

Auditors/Certified Public Accountants:  
Halt, Buzas & Powell, LTD  
99 Canal Center Plaza, Suite 230  
Alexandria, Virginia 22314

## REVENUE

Foundation Grants and Contracts	\$1,884,500
US Government Grants and Contracts	263,797
Foreign Government Grants and Contracts	30,016
Other Grants and Contracts	233,064
Salaries In-Kind	161,461
Contributions	51,192
Interest Income	14,291
Miscellaneous Income	30,871
<b>TOTAL REVENUE</b>	<b>\$2,669,192</b>

## EXPENSES

PROGRAM SERVICES	
Protecting the Global Environment & Human Health:	
Climate Change Program	\$123,703
Biodiversity and Wildlife Program	42,030
Chemicals Program	471,935

Reforming International Economic Law, Policy and Institutions:	
Trade and Sustainable Development Program	778,619
International Financial Institutions Program	102,288

Promoting Human Rights and Environmental Justice:	
Human Rights Program	90,569
Law and Communities Program	400,912

Strengthening Expertise and Capacities in Environmental Law:	
Miscellaneous Projects	80,147

<b>TOTAL PROGRAM SERVICES</b>	<b>\$2,090,203</b>
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SUPPORTING SERVICES	
General and Administrative	\$159,436
Fundraising	188,128
<b>TOTAL EXPENSES</b>	<b>\$2,437,767</b>

<b>CHANGES IN NET ASSETS</b>	<b>\$231,425</b>
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<b>BEGINNING NET ASSETS</b>	<b>\$1,874,999</b>
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<b>ENDING NET ASSETS</b>	<b>\$2,106,424</b>
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*CIEL board members Dianne Dillon-Ridgley, Wangari Maathai and Richard F. Tompkins at a dinner honoring Wangari's receipt of the 2004 Nobel Peace Prize.*

\*Donor to CIEL's Louis B. Sohn Fellowship in Human Rights and Environment. Some of these donors also contributed to CIEL for general support. For more information on the Sohn Fellowship and its related funding, please go to [http://www.ciel.org/Announce/Sohn\\_Fellowship\\_26Feb04.html](http://www.ciel.org/Announce/Sohn_Fellowship_26Feb04.html).

Special Thanks to all our Combined Federal Campaign (CFC #2324) Contributors!!!

Please Remember CIEL in Your Will!



# Top Ten Reasons to Give to CIEL

*"CIEL is a leader in making the linkage between international law and the living conditions of the ordinary person, seeking to protect the environment, health and human rights and to achieve peace. The world needs CIEL."*

—WANGARI MAATHAI,  
NOBEL PEACE LAUREATE  
2004

- 1 PROTECT** children from global environmental health threats (see CIEL's publication, *Using International Law and Institutions to Protect Children's Environmental Health*).
- 2 ENHANCE** the participation and influence of developing countries in intellectual property negotiations (see [www.ciel.org/Tae/Trade\\_IntProperty.html](http://www.ciel.org/Tae/Trade_IntProperty.html)).
- 3 SUPPORT** the human rights of Inuit and other indigenous peoples from the threats to their livelihoods and cultures posed by climate change (see [www.ciel.org/Climate/Climate\\_Inuit.html](http://www.ciel.org/Climate/Climate_Inuit.html)).
- 4 STOP** the current U.S. Administration's efforts to use implementation of the Convention on Persistent Organic Pollutants as a pretense to undercut two major U.S. environmental laws (see [www.ciel.org/Chemicals/chem\\_program.html](http://www.ciel.org/Chemicals/chem_program.html)).
- 5 PREVENT** the human rights and environmental abuses that are often perpetrated in the name of development (see [www.ciel.org/Hre/hreponent1.html](http://www.ciel.org/Hre/hreponent1.html)).
- 6 DEMAND** accountability, transparency, and public participation from International Financial Institutions, Export Credit Agencies, and the World Bank (see [www.ciel.org/Ifi/programifi.html](http://www.ciel.org/Ifi/programifi.html)).
- 7 SUPPORT** an excellent Intern and Law Fellow program (including the new Louis B. Sohn Fellowship in Human Rights and Environment), which trains promising young people from around the world to become public interest lawyers (see [www.ciel.org/Join/Join.html](http://www.ciel.org/Join/Join.html)).
- 8 ADVOCATE** chemical safety in the U.S. and the world (see [www.ciel.org/Chemicals/chem\\_program.html](http://www.ciel.org/Chemicals/chem_program.html)).
- 9 DEMOCRATIZE** trade and investment dispute settlement mechanisms. These processes deal with extremely important public policy questions but lack the fundamental elements of transparency, participation and accountability that are essential to democratic legal systems governed by the rule of law (see [www.ciel.org/Tae/programtae.html](http://www.ciel.org/Tae/programtae.html)).
- 10 EMPOWER** indigenous and other local communities to have a meaningful voice in decision-making processes that affect their lives and livelihoods (see [www.ciel.org/Lac/programlac.html](http://www.ciel.org/Lac/programlac.html)).

**A**s you've seen here in our annual report, CIEL works on extremely important and complex issues. All the legal analysis, international meetings, diplomatic strategizing, treaty negotiations, and policy work boil down to a simple mission: to protect the environment and human health and promote democracy, justice, and sustainable development—for all of us in the global ecosystem.

There are many ways to give: mail a check, make an online donation from anywhere in the world, donate through the Combined Federal Campaign, or make a bequest. However you choose to support CIEL, please give as generously as you can. Your support is critically needed. Thank you!

CIEL is a 501(c)(3) tax-exempt organization. For more information, please contact Melissa Hippler, [mhippler@ciel.org](mailto:mhippler@ciel.org) or 202-785-8700.



# About CIEL

"In 2004, CIEL established the Louis B. Sohn Fellowship in Human Rights and Environment in recognition of the work of Professor Louis Sohn, known to many as one of the greatest human rights advocates and international law makers of our time. The Fellowship recognizes promising recent law graduates working in the area of human rights and the environment. Through this Fellowship, I am proud to support CIEL in its work as a leading human rights and environmental law organization, promoting the important link between these two vital areas."

—Stephen McCaffrey

*Former Member, United Nations International Law Commission*

"Thank you CIEL for broadening my horizons in this field. I enjoyed immensely my training at CIEL and have gone on to do some interesting environmental law work in South Africa and Ireland. I just finished my LLM in environmental law at University College in London and am currently doing my practical training with a law firm in Ireland and getting great exposure in the environmental field."

—Aoife Shields

*Former Intern*

"CIEL plays a critical role in the development and implementation of international law regarding the environment, human health and sustainable development, as well as in ensuring that international institutions are transparent, participatory and accountable. CIEL is a highly valued partner of the —United Nations Environment Programme."

—Klaus Toepfer

*Executive Director, United Nations Environment Programme*

"The Zimbabwe Environmental Law Association's formation was inspired by visits from environmental law advocates in 1999, including the Center for International Environmental Law in Washington, D.C. CIEL encouraged Environmental Law students at the University of Zimbabwe to open up their options when they complete university studies by going into public interest practice as opposed to the usual choice of private legal practice. It is from these visits and seminars that the idea of a Zimbabwean public interest environmental law institution was born."

—Mutuso Dhlwayo  
*Zimbabwe Environmental Law Association*

"Now more than ever there is a need for organizations like CIEL to ensure that environmental legislation is implemented and human rights are respected globally. Communities around the world appreciate efforts by CIEL's exceptional staff to protect their rights and resources. It has been an honor and pleasure serving on CIEL's board of directors for the past ten years, and, collaborating with CIEL since its inception over fifteen years ago. I hope for continued greatness from CIEL—the work is so important."

—Sebia Hawkins

*Member, CIEL Board of Trustees*

"CIEL is a world class institution for the study and practice of international environmental law. CIEL provides legal analysis of exceptional quality, and is unique for its ability to serve as both spirited advocates in the public interest and "honest brokers" who can guide stakeholders towards common ground in difficult negotiations. Its contribution to the process of developing a Strategic Approach to International Chemicals Management by preparing a study on Principles and Approaches is just one example of its constructive and catalyzing impact. I congratulate CIEL for its many successes and for making the international environment better for all of us."

—Dr. Franz Xavier Perrez

*International Affairs Division—Head of Section, Global Affairs,  
Swiss Agency for the Environment, Forests and Landscape*

*"When you're fighting  
against government  
corruption and gigantic  
corporations in life and  
death situations on the  
ground, it's great to know  
CIEL is there with all its  
legal expertise, but  
especially with its heart  
and soul."*

—DELPHINE DJIRAIBE,  
Co-Founder and  
President, CHADIAN  
ASSOCIATION FOR THE  
PROMOTION AND DEFENSE  
OF HUMAN RIGHTS



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