

RAHUL CHOUDHARY SPEAKS WITH
COMMUNITIES IN HIMACHAL PRADESH
WHOSE VILLAGES ARE THREATENED BY
A HYDROELECTRIC PROJECT

GREEN INDIA

PHOTO COURTESY RAHUL CHOUDHARY

Changing the face of enviro law BY CAMILLA MORTENSEN

Rahul Choudhary and his work sound like the basis for a Bollywood meets *Erin Brockovich* film — a tall, dark and handsome Indian attorney fights dirty coal, polluting industries and problematic dams while saving lions and elephants. Environmental protection in India may be undergoing a sea change, and Choudhary and fellow attorneys at the Legal Initiative for Forest & Environment (LIFE), based in New Delhi, are leading the charge. The attorneys of LIFE are successfully arguing cases in front of India's Supreme Court and National Green Tribunal (NGT) that are saving endangered animals, giving a voice to communities and protecting people, land and water from industries that could harm them. Choudhary recently came to Oregon to meet with the staff of the Eugene offices of the Environmental Law Alliance Worldwide (ELAW) and tour Lane County's dumps, wetlands and enviro initiatives.

What is remarkable about the cases Choudhary deals with in India is not how different they are from what we face here in the U.S., and Oregon in particular, but how similar: endangered animals, coal plants that affect local communities, field burning, hydroelectric dams, mining and power. While America-centric enviros might think of India as “backward” with images of the 1984 Union Carbide Bhopal disaster and its toxic effects lingering, India just might surge ahead of us when it comes to its system for litigating development and the environment thanks to its relatively new National Green Tribunal, which adjudicates environmental cases. The NGT is made up of legal and scientific experts who decide on natural resource, forest and environmental cases. While the U.S. wrings its hands over Obama's latest climate change effort (or lack of it) Choudhary and LIFE have been remarkably successful arguing key green cases before the NGT as well as India's Supreme Court.

People and the environment in India, as in many countries, are up against foreign companies looking to make money or to use the natural resources.

Of animals and tribunals

There are no tigers in Africa, despite a popular misconception. There are tigers in India, as well as leopards and lions, and some of those big cats, such as the Asiatic lion, need protection. (Asiatic cheetahs went extinct in India more than 50 years ago.) That many Americans don't realize what continent wild tigers live on or know that nearly all wild lions live in sub-Saharan Africa points to how little we know about the wildlife and environment of areas such as the Indian subcontinent.

There are about 400 Asiatic lions left in the wild, and they are found in only one place — Gir Forest National Park in the western state of Gujarat. These lions once roamed through India, the Middle East and Greece, and they are said to be the ones Romans used in gladiatorial battles at the Colosseum.

Scientists say that with the last of the lions in only one place, an epidemic could wipe out the whole population, and conservationists made a plan to move half the lions to Kuno-Palpur Wildlife Sanctuary in the neighboring Indian state of Madhya Pradesh, part of the lion's historic range. Moving the lions was met with

resistance by the Gujarat state and locals who worried that sharing the lions would affect the tourism they depend on.

After years of battle, Choudhary says the case, which he worked on with fellow LIFE attorney and ELAW partner Ritwick Dutta, won in the Supreme Court this spring. The ruling doesn't just direct the translocation of the Asiatic lion. Choudhary says it marks a move to a more eco-centric viewpoint in Indian jurisprudence. The Supreme Court decision says such a viewpoint “supports the protection of all wildlife forms, not just those which are of instrumental value to humans but those which have intrinsic worth.”

As in the U.S., it's not unusual for legal disputes to be dragged out in India, but Choudhary says the National Green Tribunal, which began functioning two years ago on July 4, is making a difference not only in the speed by which cases get heard, but also in the legal decisions that are made. Most cases are heard within five to seven months, according to Indian newspaper *The Hindu*, and 70 percent of the cases dealt with by the tribunal “are megaprojects such as the construction of dams and thermal power projects.”

India is the third country, after Australia and New Zealand, to have a court like this. Legal and scientific experts make the decisions, which can be appealed to the Supreme Court only if the tribunal got the law wrong, according to ELAW scientist Mark Chernaik.

Indian media reports say that the NGT is still underpopulated — there can be a maximum of 20 judges and 20 scientific experts on the bench and a minimum of 10 of each, but the NGT website shows while it has the requisite 10 scientific experts, it has only four judicial members. Yet decisions are flying out of the court, keeping Choudhary and LIFE busy. Choudhary easily has four cases a day.

Chernaik, who has worked with Choudhary for years giving him scientific support, met him in person for the first time on the attorney's recent trip to Eugene. Chernaik says he hopes he can convey some of the excitement of the NGT. “They have something we don't — decision makers that are not just judges but also scientists.”

Bringing the NGT into being wasn't easy. Chernaik and Choudhary say that when the NGT was first set up, the National Environmental Appellate Authority was abolished, but the Indian government lagged on setting up the NGT, leaving no court to rule on environmental petitions. With support from ELAW in Eugene, the Indian attorneys went to the Supreme Court of India to force the government to comply with the NGT Act and won.