

### Keywords

- > Procedural justice
- > Legal strategies
- > Criminal law
- > Civil law
- > Environmental law
- > Environmental crime
- > EJOs capacity building

### How can Environmental Justice Organisations (EJOs), local communities or citizens make justice happen? What are the rules, tools and opportunities to fight back against environmental injustice?

The manual “A legal guide for communities seeking environmental justice” looks at a wide range of legal avenues that can work. It’s made for those defending a worldwide frontline, a struggle against attacks to Mother Earth, the public goods and communities.

As this global struggle goes on and impunity becomes standard practice, the need for procedural justice is growing. Tapping into the competences and knowledge brought together in EJOLT’s program on Law and Institutions, this manual is written on **which legal tools EJOs from all over the world use and how to expand them.**

### Tendencies in processual justice

Famous **environmental lawsuits** are explained in the manual to discuss tendencies and **tips to obtain justice**. In the last 20 years new practices like transnational trials and new dynamics among stakeholders have taken place. While **some processual justice cases were successful**, remediation, precautionary measure and non-recurrence still lack. Among the major trends, we can notice the fundamental role of collective or class action, where **bottom-up processes** have been implemented, like in the case of Shell in the Netherlands. Winning judgements are often based on the non application of norms, of risk and security measures, or on the respect of duty.

A reason for hope is that **the role of communities and EJOs role** in such trials is **increasing**. They have brought **innovative approaches** to legal strategy, supported **processual justice** with fundamental information and proof collection and implemented communities’ participative processes for the development of claims and requests.

Another common asset is the visibility such cases have given to environmental injustice situations, which is fundamental to exercise pressure for example on a defendant company’s image, as media attention

brought on those trials reinforces the circulation information and awareness.

### About the manual

The manual provides information on **who can fill a lawsuit/action** before a Court or institutional bodies, **how it needs to be done and links to contacts and models of demands**. It is composed of **3 main parts**. In the first part you will find **information regarding civil law tools at international, regional and transnational levels**. The second part is about **international, regional and national criminal tools and bodies**. The last part provides information on the **defence of environment defenders** and other instruments and strategic views based on good practices.

- The manual also provides information on **key concepts**, guidance and practical examples on lessons learned from past legal experiences.
- The manual **translates information** that is often considered as 'too difficult' **into a language that is easy to understand**. It also wants to provide basic information for EJOs on **how to defend criminalised or threatened environmental justice defenders**.
- It aspires to be an easily accessible **“online library”**. The annex provides hyperlinks to further documentations and technical information and contacts of legal institutions and EJOs who work in this field.

While it is not exhaustive, the manual does cover ample information, including court cases, cross-countries legal instruments, etc.

### Conventions and regulations

#### European level

- The European Convention for Human Rights
- The Aarhus Convention (UNECE)
- Environment Liability Directive 2004/35/EC
- Environmental Crime Directive Directive 2008/99/EC

#### International level

- UN Special rapporteur on Human Rights Defenders allegation procedure



**Ejolt report: A legal guide for communities seeking environmental justice**

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## Court & Cases

### From Europe

#### European Court of Human Rights

Case of Ms Fadeyeva v. Russia: Environmental pollution regulation in Russia

#### Court of Justice of the European Union

Commission of the European Community vs Italian Republic on waste crises in Campania (Case C-297/08)

Stichting Natuur en Milieu & Pesticide Action Network Europe v. European Commission on pesticide regulation Case T-338/08

### From the Americas

#### Inter-American Court for Human Rights

Case Yanomami v. Brazil on mining and infrastructure projects in Yanomami indigenous land

Case Kichwa Peoples of Sarayaku community and its members v. Ecuador on non-prior consultation and oil impacts in indigenous land

### From Africa

#### African Court for Human and People's Rights

The African Commission on Human and People's Rights v. Kenya on human rights violations of the people regarding forced displacement related to large scale logging

#### Economic Community of West African States Court

Social and Economic Rights Action Center v. Nigeria on Nigerian government responsibilities in Human rights violations related to oil extraction in the Niger Delta Judgment N° ECW/CCJ/JUD/18/12

### From international levels

#### The International Criminal Court

The demand against Chevron Texaco CEO for Ecuadorian Amazon forest contamination (23/10/2014)

## Cross Countries Legal Instruments

### Alien Tort Claim Act - ACTA

DYNCORP case: Aguasanta-Arias et al. v. DynCorp and Arroyo-Quinteros et al. v. DyncCorp regarding financial reparation of population impacted by fumigation of DynCorp within the Plan Colombia

Rio-Tinto Papua New Guine case regarding liabilities of the Rio Tinto corporation in crimes committed by the Papua New Guinea army and for the environmental impacts related to the Panguna mine

Chevron - Texaco case: Aguinda vs. Texaco case and Ecuador vs. Chevron Texaco regarding the liabilities of the Chevron Texaco oil activities in the Ecuadorian amazon and its impacts on local population

### Ecuadorian Court of Lago Agrio

### Dutch Court of The Hague

Friday Alfred Akpan. vs. Royal Dutch Shell Plc regarding the impacts of Shell oil activities in Ikot Ada Udo communities in Nigeria

## Other institutional and legal tools

### In Europe

European Commission Infringement procedure and citizens complaint form

European Parliament petition procedure

### In the Americas

Inter-American Commission petition procedure

### In Africa

African Commission for Human and People's Rights complaint procedure



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## Principles and concepts

- The polluter pays principle
- The precautionary principle
- The prevention principle
- Crime against humanity
- Endangerment crime
- Intentionality
- Serious negligence
- Economic, social and cultural determination
- Human rights defenders
- Responsibility to protect human rights
- Arrest and prosecution
- Victim of crime

## Tips on

- Building environmental justice legal defense strategies
- Methodological approach to community involvement in legal actions

## For more information

**A legal guide for communities seeking environmental justice**

**EJOLT Report No. 17**, available at:

[www.ejolt.org/reports](http://www.ejolt.org/reports)

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