

Environmental Impact Assessments (EIAs)

Because industry and development projects have caused so much environmental destruction, many governments, industries, and development agencies are now required by law to use a decision-making and planning tool called an environmental impact assessment, or EIA.

An EIA describes how a project, such as building roads, mines, airports, or other industrial development will affect the people, animals, land, water, and air quality in an area. It may also look at social problems such as displacement of people and loss of cultural resources, such as traditional livelihoods, places of historic or spiritual importance, etc. An EIA must also suggest less harmful ways for the work to be done if a project is to go ahead.

An EIA may be done by a corporation alone, or it may be done by a corporation together with communities and government officials. (For stories about how 2 communities used an EIA, see pages 466 and 561.)

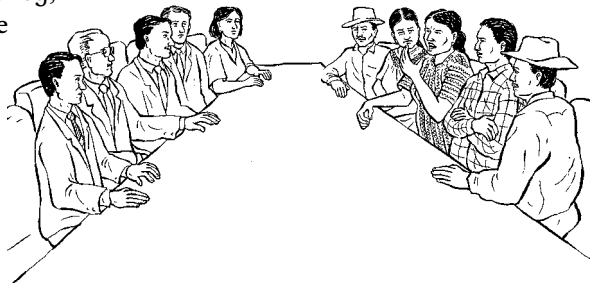
How EIAs work

EIAs involve 2 basic activities:

1. A study of the project's impacts and a written report describing these impacts. This is usually the responsibility of the company managing the project and may or may not involve community participation.
2. Public meetings to allow affected communities to evaluate the project before it begins.

An EIA works best when it is guided by the precautionary principle (see page 32). If an EIA shows harm may result from a project, the plan should be stopped or changed. But often EIAs are used to make a project appear harmless even though the project will cause serious harm to people and the environment, now or in the future.

Many companies write the EIA report before inviting community participation, rather than writing it with community participation. Sometimes companies do not publicize meetings about the EIA or they make the meetings difficult for people to attend. When an unfair EIA process is rushed through by a company or government agency, it often leads to a situation where the project begins while the community campaigns to stop it. Nevertheless, EIAs can be an important tool for communities and governments to evaluate and improve proposed development projects.



How communities can influence an EIA

Getting lots of information from different sources (not just from the company) and taking the time you need to understand all the potential impacts, are important parts of exercising your right to participate in an EIA. Usually, many decisions are already made by the time the people who are most affected have any say.

Participating in an EIA process can help educate and organize your community to better protect its health and resources in the long term. Even if it is not always possible to stop a harmful project, educating and organizing around an EIA can help protect your community.



Demand to participate

Communities can demand a voice in an EIA. Sometimes a court, government, or development agency will allow community representatives to take part in the EIA process. People from the community may participate, or can ask an ally, such as an NGO or a lawyer, to represent them. If community representatives take part in the EIA process, they can then report back at community meetings about what the company is planning and doing. Participation can also help build an understanding about the community's rights and responsibilities, and the ways they may prevent harm from a project or prevent the project altogether.

Get the entire EIA report

Communities have a right to see the entire EIA document, not just a summary or a partial version. EIA reports often include sections called "Security Risks," "Social Risks," "Health Risks," and "Clean-up Costs." These sections may describe problems the company would rather not share, especially at public meetings.

The problems described in an EIA, as well as the problems ignored by the EIA, can be shared with media, government officials, and the public to help build broader resistance to harmful projects. You can also share them with national or international bodies, such as the United Nations, which may result in pressure being placed on corporations or governments to respond to community concerns.

Communities resist mining

The small farming community of Junín lies in a beautiful area of cloud forest on the slopes of the Andes Mountains in Ecuador. People here are poor but they have earned a living from the earth for hundreds of years. Recently, the people of Junín faced the biggest challenge in their history: a company planned to build one of South America's largest open-pit copper mines in their region.

When a Japanese mining company came to explore the area, people in Junín knew that mining could bring pollution. But the mining company promised to build roads, health clinics, and schools, so the people of Junín let them explore for minerals anyway. Before long, the company found a large deposit of copper, and the people of Junín soon found their water supply polluted with mine waste. People were soon suffering from skin rashes and other health problems.

The community asked the mining company to stop polluting. The company didn't stop, so the people of Junín took action. When the miners were away on holiday, hundreds of villagers entered the mining camp, removed tools, furniture, and other items of value, and left them with the authorities. Then they burned down the camp. The company got the message and pulled out, but later sold the mine to a company from Canada.

The Canadian company worked to divide the community. They offered people from Junín large amounts of money to sell their land. Some people did sell, but others refused. The company knew this would cause conflicts. The company also sent a doctor to provide health care, but only to people who signed a paper saying they were in favor of the mine. After making this injustice known outside Ecuador, international supporters sent a health worker to attend anyone who was ill.

We continued organizing. Some villagers started a newspaper to spread the news and build support for our struggle.



Because the law in Ecuador requires an EIA before any development project can begin, the people in Junín made the EIA part of their plan to protect their land. The villagers knew that if an EIA was not done properly, the government would not allow the mine to be built. They also knew an honest EIA would show how copper mining would force people to move away, cause air pollution, erosion and silting of waterways, and contaminate the water with raw sewage, heavy metals, and other toxic waste.

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The people of Junín had learned to use the law to their advantage. After the company claimed it had done the EIA, the government rejected it as incomplete.

People in Junín also used direct actions, such as refusing to let the company enter the area by blocking roads. Community leaders declared the entire municipality a non-mining zone. By using a variety of tactics, the people of Junín have prevented this open-pit copper mine from destroying their homes, their rich forests, and their water sources.



Community-based EIAs

A community-based EIA can help people in a village, town, or region come to a common understanding of the ways they use, protect, and depend on resources such as air, food, water, animals, forest products, plant medicines, sacred places, and so on. This can create a process for resolving conflicts and misunderstandings within communities about the use of resources. This can help build the unity needed to challenge corporations or governments. It can also help mobilize people to oppose industries which take advantage of divisions among people to exploit their water, timber, land, or other resources.

A community-based EIA can be as simple as discussing what resources the community uses and coming to agreements about how to best protect them from exploitation. A more complicated community-based EIA can include making detailed maps, conducting surveys, and building alliances with neighboring communities and supportive organizations.

A community-based EIA is different from an EIA carried out by corporations or governments. It may not meet the legal requirements of an “official” EIA, because it puts more importance on what communities think and the health of people and their culture than on exploiting resources. A community-based EIA recognizes that the difficult to understand structure and “scientific” language required in EIAs is not only confusing to most people, but purposely designed to exclude them. A community-based EIA is a way of saying “Another way to assess environmental impact is possible.”

Many of the activities throughout this book, such as mapping (page 15), sociodramas (page 18), health surveys (see page 500), watershed protection activities (page 164), trash walks (page 391), or other activities developed by your community can contribute to a community-based EIA.

Lawsuits

One way that environmental rights and justice can be won is by going to court to sue companies that violate national or international laws. A successful lawsuit against a polluting industry or company not only protects the people immediately affected, it also protects people in other places and future generations.

Will a lawsuit help your community?

Lawsuits have been used successfully in many struggles for environmental justice. But lawsuits are very expensive and they often take many years.

Even when a country has laws to protect health and the environment, it can be difficult to win a lawsuit in court. If the laws are not often used, judges and lawyers may not be aware of them. And in many countries, especially where corporations are very powerful, corruption among judges and politicians makes it difficult for poor communities to claim their rights. Unfortunately, there are many more unsuccessful lawsuits than successful lawsuits.

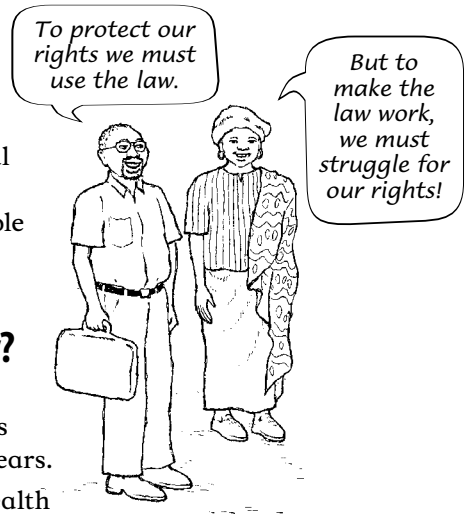
Before beginning a lawsuit against a corporation, industry, or government, these are some things to consider.

Think about your goals

It is important to know exactly what you want a lawsuit to achieve. Then decide if a lawsuit is the best way to reach that goal. Do you want a company to:

- clean up an oil spill or other toxic pollution?
- pay people for damages to their health, land, or resources?
- shut down and leave the region or country?

A legal battle can mobilize and educate the community. But actions such as boycotts, sit-ins, strikes, or public information campaigns may lead to negotiations or political settlements more quickly and easily than a long legal battle. Consider if these kinds of actions will be easier and more effective for your community to undertake than a lawsuit. Also consider if using both legal action and direct action will help your community to win.



Will a lawsuit be useful even if it does not succeed in court?

Of course you want to win your lawsuit. But if you are unsure whether your lawsuit can win, consider whether it will help or harm your cause if it does not win. Sometimes an unsuccessful lawsuit can bring public attention to a community's problems. If a lawsuit involving environmental damage and human rights abuse is unsuccessful in your country's courts, you may be able to take the complaint to an international body such as the Inter-American Human Rights Commission or the United Nations (see page 567). This still may not resolve the problem, but it can bring more attention to your issues; however, it also takes more time and resources.

Sometimes an unsuccessful lawsuit can make things worse. A bad result can lead judges and lawyers to think that future lawsuits should not win either. Negative publicity can cause people to think a community is unjustly demanding money or other rewards. And like any failed organizing effort, unsuccessful lawsuits can demoralize and divide a community.

Who will take the lawsuit to court?

The victim of harm, whether it is a person, a person's family, or an entire community, must be willing to take on the work and the risks of a lawsuit. Usually an organization cannot bring a lawsuit against a company on behalf of someone who was harmed but who is not willing to join the lawsuit.

Is there proof of harm?

For a lawsuit to succeed, you must be able to prove:

- The victims suffered physical or economic harm.
- The corporation caused or is responsible for the harm.

If there is not enough evidence to prove this, the lawsuit may do more harm than good. Even when it is clear a company has violated the law, without proof that they caused harm you may not be allowed to bring a case to court, and if you do, you may not win.

Is the proof available?

Only proof that can be brought to court is useful in court. People who bring a lawsuit because they have suffered harm must be willing and able to speak in court, and they must have witnesses who are willing to speak as well. They must be able to show through pictures, studies, medical records, or some other evidence that harm was done to them by the corporation being sued. Harm can be very hard to prove. For example, a company may hire a doctor to say that it was not the chemicals it used that caused cancer among its workers, but instead it was workers bad habits such as smoking tobacco, eating an unhealthy diet, or just bad luck. It can be very hard to legally prove "cause and effect" even if it seems obvious based on common sense.

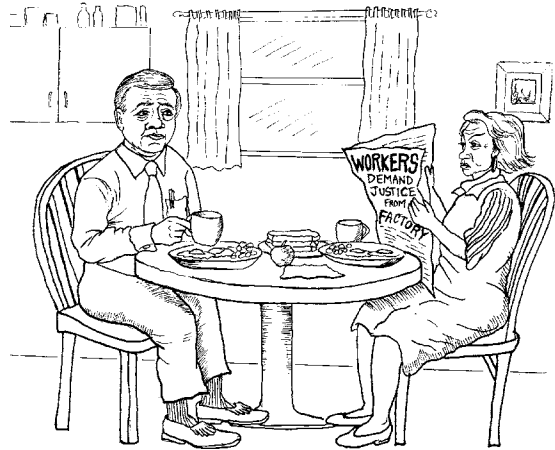
Who or what caused the harm?

Lawsuits can be brought against people, corporations, and in many countries against the government for causing environmental damage.

Is the lawsuit against a multinational corporation?

Multinational corporations often have offices in many countries. To successfully sue a multinational corporation it is necessary to work both in the country where the damage was done and in the corporation's home country. This can be costly and difficult, but it can be done (see the stories on pages 494 and 522).

Multinational companies often have branches in the countries where they work, called subsidiaries. It may be easier to sue the subsidiary of a company than to sue the foreign owner. For example, when the U.S. oil company Chevron polluted the Niger Delta in Nigeria, rather than suing the American company, local activists sued Chevron's Nigerian subsidiary. At the same time, international activists launched a campaign to educate people around the world about Chevron's human rights abuses, to pressure the company to change its practices.



Other things to consider

- Was the harm or abuse committed recently? A lawsuit must be filed within a certain number of years after the harm was done (usually no more than 10 years). This makes it difficult to win a case about illnesses that may take many years to develop, like cancers, even though these can be the most severe illnesses.
- Are the people bringing the lawsuit, their witnesses, and their lawyers willing to risk their safety? Many corporations and governments will stop at nothing to retain their power, including physical violence and murder. Those who challenge this power may put their lives at risk.
- Is there money to pay for the lawsuit? Court fees, lawyers' fees, international travel, phone calls, gathering proof, and other costs add up quickly.
- Are you able to work many years on a lawsuit? A lawsuit can take from 3 to 10 years or more. Sometimes the victims have already died by the time their cases are resolved.

Using International Law

Many laws and conventions agreed on by countries who are members of the United Nations (nearly every country in the world) protect environmental rights for all people. Human rights belong to every person and community and cannot be taken away. These rights are recognized internationally, but in order for these rights to be effective, people must be aware of them and must exercise them. Without action to make sure they are enforced at a national level, international laws and conventions are not effective.



International agreements

Many international agreements protect human rights and the environment. Unfortunately, a person or group cannot usually file a complaint when these agreements are violated. Only a State Party (a country that has signed the agreement) can complain, and they rarely do. And these agreements can only be enforced against governments, not against multinational corporations. In many countries, international laws can be used in the courts of that country. Learning what international agreements say may also help you understand the attitudes of the international community toward particular issues, and help build campaigns to protect human rights.

If people are aware of their rights and the agreements that many countries have made to respect them, they will be better able to exercise their rights and hold governments accountable.

Here is a list of some of the international agreements that protect human rights and the environment, along with websites where you can find the agreements and information about how they are used. (See page 467 for a description of some of the agreements on toxics.)

The United Nations Charter

www.un.org/aboutun/charter/

The Universal Declaration of Human Rights

www.un.org/Overview/rights.html

The Convention on the Rights of the Child

www.unhchr.ch/html/menu3/b/k2crc.htm

www.unicef.org/crc/

The United Nations Framework Convention on Climate Change

unfccc.int/2860.php

The Convention on Biological Diversity

www.biodiv.org/default.shtml

www.iisd.ca/biodiv/cbdintro.html

The Declaration on the Right to Development

www.unhchr.ch/html/menu3/b/74.htm

The International Covenant on Economic, Social and Cultural Rights

www.unhchr.ch/html/menu3/b/a_ceschr.htm

The United Nations Declaration on Social Progress and Development

www.unhchr.ch/html/menu3/b/m_progre.htm

The United Nations Vancouver Declaration on Human Settlements

www.un-documents.net/van-dec.htm

The Stockholm Convention on the Elimination of POPs

www.pops.int

www.ipen.org

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal

www.basel.int/text/con-e.htm

www.ban.org

The Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement of Hazardous Wastes within Africa

www.londonconvention.org/Bamako.htm

www.ban.org/Library/bamako_treaty.htm

The Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

www.pic.int/

The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter

www.imo.org/Conventions/contents.asp?topic_id=258&doc_id=681

www.londonconvention.org

The Dublin Statement on Water and Sustainable Development

www.wmo.ch/web/homs/documents/english/icwedece.html

The Millennium Declaration of Johannesburg

www.johannesburgsummit.org/html/documents/summit_docs/political_declaration_final.pdf

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International forums and special procedures

To bring attention to their struggles for human rights, people in many countries have sought justice in international legal forums such as the Organization of American States Inter-American Court, the World Court, and the United Nations Commission on Human Rights. International attention in these forums can pressure countries to negotiate settlements or end corporate activities that cause environmental damage and violate human rights.

It may be necessary to show that going to the courts of the country where the human rights violation took place has not led to a solution, or to explain why national laws and the national court system are not fair or will probably not be successful for other reasons.

The United Nations has also established “special procedures” to address human rights abuses. These special procedures can be used by groups and individuals without the consent of their government, and do not depend on any covenants or conventions.

A person or community can use the special procedures by contacting human rights experts called “Special Rapporteurs.” They investigate human rights abuses that happen within their area of work (called their “mandate”), such as the right to food, the right to health, the dumping of toxic wastes, and so on. These Special Rapporteurs can be contacted with a simple letter, along with any news reports, documents, or other written information about the problem. The Rapporteurs report these problems to the United Nations Human Rights Council, and sometimes to the United Nations General Assembly.

The names of the Rapporteurs, their mandates, and their contact information can be found on the UN Human Rights website (www.ohchr.org), under “Human Rights by Issue.”

