

# Defining the Role and Principles of Lawyers and Academicians in the Environmental Justice Movement

A provisional document prepared by the  
African American Environmental Justice Action Movement  
October, 1997

As the environmental justice (EJ) movement continues to grow and develop, various new and creative tactics and strategies are being employed within communities in our struggle for clean land, air, water and healthy human beings. The tried and true strategies and tactics of grassroots, community based organizing and militant direction action which has characterized our movement for the past twenty years continues to be successful by empowering our people to master their own fates and destinies. However, as the EJ movement has become larger, more successful, and increasingly more sophisticated, it has attracted the attention of various organizations and institutions beyond our grassroots communities. Discussion of environmental justice is no longer limited to community and neighborhood dialogue and meetings. The struggle against poisoning of the places in which we work, live and play is now a subject of particular concern within the legal and scientific communities and within the halls of academia as well. This document represents the provisional policy perspective of the organizations of the African American Environmental Justice Action Network (AAEJAN) on this important issue.

## Lawyers

The use of lawsuits, legal injunctions and other litigation tactics has grown exponentially in the last several years in southern communities across the United States. Some communities have found the legal strategy helpful in achieving limited gains in the process of community organizing. Legal strategies have been used to inspire community residents by demonstrating the level of seriousness the toxic poisoning of our communities has become. The legal strategy has also had some success in forcing the hand of the industrial opposition to react to a community initiative during a stalemate. However, hundreds of lawsuits and injunctions have been filed in both state and federal courts leading many with the EJ movement and without to conclude that this is the “magic solution” in our struggle against the environmental destruction of our communities! We must be very clear --- the law is not the only answer to environmental problems. The law must be viewed as a tool that can be applied as a part of a broader strategy to prevent environmental harms and to advance the struggle for environmental justice.

Lawyers, empowered by the perception of their legal expertise, are frequently playing influential roles in and over environmental justice community organizations. Law schools

are rapidly developing environmental law clinics and symposia throughout the country. Environmental justice litigation has become a cottage industry of sorts for some lawyers as the very American tactic of “take ‘em to court” gains increasing acceptance within the EJ movement in our quest for compensation/reparations for the damage done to our communities. We must be aware of both the benefits and limitations of a “courtroom” environmental justice strategy.

### **Academicians**

The seduction of so-called “good science” offered by academicians, technical assistants, etc. oftentimes places “environmental professionals” in positions of serious influence over the decision-making process of new and even veteran grassroots EJ community organizations. Academicians working with these communities frequently have little to no background in community organizing struggles, yet, often posture as resource people in organizing strategy discussions. The academicians are frequently accountable to the University administration rather than to the community and have a history of being subject to corporate influence and being guided by project funding over community needs. Frequently, universities received environmental justice funding for work in a community with which university officials have had very little or no real advance consultation.

The fact that universities are often accountable to institutions outside of the impacted community frequently leads academicians to exhibit an extreme reluctance in endorsing direct action and civil disobedience. The fact that historically both the litigation tactic and scientific assessment strategy have been extremely limited in their ratios of success and reliability seems to be of little or no consequence to the elites which promote them within our movement. If academicians truly understand and embrace the complete spirit and track record of our movement they must not continue to challenge the very foundations of our struggle --- direct action!

Many communities begin to feel as if they are strategically “pigeon-holed” into limited options which must be approved by academic/scientific (or legal) advisors and experts. Aggressive direct action strategies and tactics are regularly discouraged and then abandoned by activists after being advised by the “experts” that such activity might “hurt the lawsuit” or that a community concern is “inconsistent with academic/scientific data.” It is not uncommon for communities to be enticed by the elites to remain silent in hope that a rare financial settlement is waiting in the wings. To add insult to injury, too many are being convinced that blind faith in the promises of the complexities of environmental science and academic theory is more practical than community common sense! These are fallacies which must be understood and challenged by grassroots activists as well as lawyers and academicians with a genuine commitment to advancing the fundamental assumptions of

the EJ movement. The AAEJAN definitively affirms, "We speak for ourselves! We organize ourselves! We lead ourselves!"

## **Conclusions**

The growing prominence of formally trained environmental professionals in our movement has far too often shifted direct and ultimate responsibility for the success of the EJ struggle out of the hands of the community collective and into the mouths of lawyers and/or minds of scientists. As a result, many seem to have forgotten the credos of empowered communities that assert, "Law is found in the courtroom. Justice is found in the streets!" and, that "The spirit and genius of the people is greater than the man's technology!" We offer this listing of Principles for Lawyers and Academicians for members of our communities struggling for self determination and community control as well as for the "experts" of the legal and scientific community who principally seek to assist us in our struggle for environmental justice:

\* Community residents and activists are the "experts" on grassroots community organizing decisions, strategies and tactics and must be respected as such. Lawyers, academicians, technical assistants and other environmental professionals serve as resource people and advisors for specific and limited components of a community-based and controlled organizing strategy.

Lawyers and academicians must provide services which are beneficial and accountable to the communities being served and the goals of the movement as a whole. Lawyers, academicians and others who are also community activists are not more important or potentially valuable than any other member of that community. We recognize that all people (lawyers and academicians included) are members of the communities which may be affected by the pains of environmental oppression. Yet, we identify lawyers and academicians as a part of the grassroots movement of affected communities only if they are accountable to that community rather than external organizations and institutions.

\* The limitations of the utility of legal strategy and litigation tactics must be understood by all involved in and with our movement. Litigation is not a substitute for effective community organization nor is a lawsuit representative of a "winning long-term strategy." Lawyers must be honest --- Claim no easy victories! Tell no lies! Lawsuits are always merely a tactical move and great efforts must always be made to educate our communities of this reality. The lawsuit tactic must always be counter-balanced by community oriented tactics which leave the primary responsibility for the success of the campaign in the hands of the people.

\* Lawyers and community activists must be mindful of the fact that using the law tactically and philosophically creates certain contradictions within our movement. First, using the law takes the struggle out of the realm which is community controlled and places it within an institution (the legal system) which has historically perpetuated environmental injustice in particular and community disempowerment of oppressed people in general. We must caution against the appearance of legitimizing this system to ourselves and to others as we struggle for redress within a fundamentally illegitimate system. Second, the use of the law encapsulates and limits the extent and depth of our movements' political expression to the scope and breadth of the parameters of existing statutory law. The "law of the land" is institutionally racist and classist and upholds tragically insufficient protections of the health of our communities. This fact is a major reason why we must struggle for environmental justice in our communities in the first place.

\* Efforts at mounting a massive legal strategy and/or seeking to integrate the community agenda with a predefined and funded program of the academy can lead to serious draining and misdirection of already scarce community resources. Efforts at legal redress normally require huge amounts of seed money up front tapping the budgets of grassroots organizations and cultivating an automatic cycle of dependency of the community on the success of the lawsuit. We must struggle against this and work to create relationships that do not require large sums of seed money up front. We must also clearly understand the limitations of natural science in explaining the reality in our community. Science is but only tool in the building of a strong movement.

Lawyers and academicians are an important asset to our human rights movement. We need more conscious lawyers and academicians who are committed to the principles of our movement. All participants in the movement must serve the interests of our communities as they are defined by our communities.

The motivation for the development of these principles is berthed from our commitment to self determination. Self determination is a fundamental human right to which we are entitled by virtue of the fact that we live and breathe as members of the family of humanity. Our people's right to self determination which can be related to the struggle for environmental justice is legally defined in international legal documents such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Social, Cultural and Economic Rights and in the United Nations Convention on Genocide. The struggle for environmental justice is a struggle for human rights. We must seek to make full use of all of our talents and human resources, legal and academic, grassroots and activist, as we move forward to the future. Free the land!