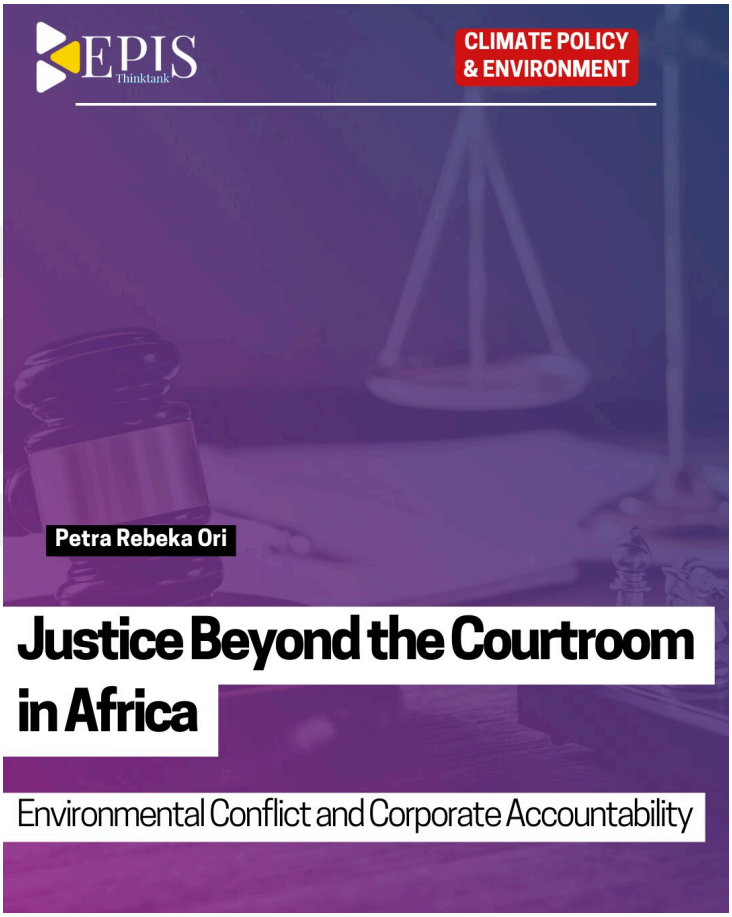
Justice Beyond the Courtroom in Africa

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Introduction

The local protest in Warren County, North Carolina, in the early 1980s, which later on grew into a national one, is often referred to as the 'birth of environmental justice movements' (Aguilera & Mascarenhas, 2026, p. 1). Since then, the concept has evolved into a wide field of activist-led knowledge production, which has global manifestations and implications (Aguilera & Mascarenhas, 2026, p. 4). At the core of these movements lies the uneven distribution of environmental harms and goods, meaning "people's struggles to maintain communal access to natural resources and

traditional livelihoods pitted against the interest of state power and global forces" (Aguilera & Mascarenhas, 2026, p. 5). Their demands and goals encompass a plural approach to justice linking "what seems like widely different moments and movements that both precede and coexist with it" (Aguilera & Mascarenhas, 2026, p. 6). However, despite their deep commitment to justice, as of recent years (2023-2024), based on a report by Global Witness, 196 environmental defenders were murdered, and 43% of those killed were Indigenous (Joanne, 2025, p. 8).

Recently, there has been a growing tendency by environmental justice movements in Africa to account for transnational corporate exploitation through litigation, which is a more institutionalised form of activism. Yet this begs the question: In what ways does transnational litigation function as both a challenge to and a reproduction of corporate impunity in the strategies of environmental justice movements in Africa?

Social Movements and Environmental Justice

The concept of 'social movements' can be approached in multiple ways. This paper follows Larmer's (2010, p. 252) conceptualisation of African social movements, which deliberately resists a single, fixed definition. Instead, social movements may encompass non-governmental organisations, civil society actors, self-defined movements, as well as practices such as strikes and riots (Lamer, 2010, p. 252). Rather than being defined by their form, these movements reflect the contradictions and hierarchies of the societies in which they operate, functioning as "venues or spaces in which political difference is articulated in societies characterised by inequality, exploitation and social conflict" (Larmer, 2010, p. 253).

'Environmental conflict' refers to instances in which inhabitants of human-degraded areas articulate grievances or contestations arising from the deterioration of their surroundings (Minguet, 2021, p. 61). Minguet (2021, p. 61) argues that these may manifest in various forms such as petitions, civil lawsuits, demonstrations, or occupations. Environmental conflicts become linked to environmental justice movements (a type of social movement) through the concept of 'injustice' (Minguet, 2021, p. 69). What these movements encompass as injustices are simply the lack of environmental justice, which can address multiple types of disputes, sometimes simultaneously (Minguet, 2021, p. 69).

Transnational Corporations

Transnational corporations are one of the most noticeable developments of global businesses, exploiting the regulatory differences between states by "re-locating some of their manufacturing plants from one country to another, or by shifting the sourcing of their supplies to a different country with a more advantageous regulatory regime" (Frynas, 2004, p. 365). This tactic enables bidding governments against one another to attract foreign investment, imposing lower environmental and social standards for firms (Frynas, 2004, p. 365).

Case Studies: Litigation Against Transnational Corporations

As environmental justice movements evolved, they were increasingly framed in terms of working with government and industry patterns, limiting previously employed disruptive tactics (Aguilera & Mascarenhas, 2026, p. 2). Litigation became a tool in "creating checks and balances" (Frynas, 2004, p. 365) in instances where transnational corporations exploit "the poor and their environment" (Frynas, 2004, p. 365). This paper will focus now on two litigation cases in European Domestic Courts that grew out of environmental justice movements in different African countries targeting transnational corporations to examine how environmental justice movements have mobilised European domestic courts to pursue accountability for transnational corporate environmental harm.

Nigerian farmers sued Shell's Dutch parent company for oil spills

Despite Nigerian laws prohibiting gas flaring since 1984, Shell has been violating the rule, transforming the once fertile wetlands of the Niger Delta into the world's largest oil disaster (EJA, 2023). This disaster has affected 1 million people through hydrocarbon pollution in the surface water in Ogoniland, resulting in a level 900 times above the standards of the World Health Organisation (EJA, 2023). Furthermore, it completely destroyed local fisheries, affecting 5 million fishermen, and the acid rain caused miscarriages, deformed births, respiratory illnesses, and cancer (EJA, 2023). An even more harmful result of these activities was the estimated 1.5 million tons of oil spilled over the last 50 years, despite 60% of people depending on the natural environment (EJA, 2023).

Due to the absence of effective remedies in the host states, victims of these abuses try to get remedies in the courts of the company's home states (Roorda & Leader, 2021, p. 368). The case of Four Nigerian Farmers and Stichting Milieudefensie v Shell in the Dutch Court of Appeals reflects this, in which claimants sued both Royal Dutch Shell and Shell Petroleum Development Company of Nigeria Limited as co-defendants, alleging that "spills were caused by negligent maintenance by the defendants, and resulted in extensive damage to the claimants' farmlands and fishing grounds" (Roorda & Leader, 2021, p. 371).

This ruling of this court case resulted in the growing recognition of parent company liability for the overseas operations of their subsidiaries, signalling a potential shift in accountability for transnational corporations engaged in environmental harm (Roorda & Leader, 2021, p. 375).

Zambian communities sued Vedanta's UK parent company for toxic mine discharges

On the 10th of April 2019, the Supreme Court of the United Kingdom ruled on the liability of an English company for environmental damage inflicted by its foreign subsidiary in Zambia (Varvastian & Kalunga, 2020, p. 324). The second largest copper mine, Nchanga Copper Mine in the Chingola District, has been discharging toxic emissions into the water used by "exceptionally poor members of local rural farming communities for drinking, irrigation and other essential purposes" (Varvastian & Kalunga,

2020, p. 325; EJA, 2022). Therefore, in 2015, a group of 1826 Zambian citizens initiated the proceedings, alleging personal injury, damage to property and loss of income (Varvastian & Kalunga, 2020, p. 325).

This case, similarly to the one in Nigeria, became an important precedent for providing access to justice for foreign claimants in transnational corporate liability litigation (Varvastian & Kalunga, 2020, p. 330).

These court decisions may prompt companies to update their policies and oversight practices, ensuring that their foreign subsidiaries adhere to environmental standards to minimise the risk of future legal claims (Varvastian & Kalunga, 2020, p. 344-345).

The Limits of Law and the Role of Force

This paper argues that environmental justice movements in Africa increasingly mobilise transnational litigation as a strategic response to extractive corporate exploitation. Yet this strategy has an ambivalent role in environmental justice struggles: it simultaneously challenges and reproduces corporate impunity.

Environmental conflicts extend beyond disputes between corporations and local communities; they are deeply intertwined with broader structural tensions between dominant powers and marginalised populations, often rooted in colonial histories and shaped by the economic policies of states and international institutions (Minguet, 2021, p. 72). Consequently, national courts' decisions will never be able to account for environmental conflicts fully (Minguet, 2021, p. 73). Building on this critique, Aguilera and Michael (2026, p. 2) argue that strategies of law remained uncritical of the violence inherent in it, unable to challenge the state's hegemony. The authors state that "to be effective in modern anti-capitalist and anti-racist struggles, these theories must acknowledge the disjunctures between law and justice. In other words, theories of environmental justice must acknowledge that what is legal is not always just and what is just is not always legal" (Aguilera & Michael, 2026, p. 2). Central to this understanding is the concept of force, which means both the symbolic and material capacity that underpins the enforcement of law as well as the enactment of resistance by communities (Aguilera & Michael, 2026, p. 2). This concept refers to an inherent aspect of political life that can simultaneously uphold injustice and challenge it: the effectiveness of law depends on its enforceability, which is evident in the criminalisation and killing of hundreds of land and environmental defenders, yet law can also operate as a different manifestation of force—a justice-driven capacity capable of disrupting unjust systems (Aguilera & Michael, 2026, pp. 2–3).

Nevertheless, most scholars and environmental justice activists look at the state as able to 'accommodate demands' via legislation, institutional reforms, and other policy concessions, which requires assessing whether these tools by the state ever dismantle its violence. (Aguilera & Michael, 2026, p. 6). Yet, according to Aguilera and Michael (2026, pp. 6-7), environmental justice is "incomplete if it doesn't set out to undo the system of

oppression and exploitation and the gendered, racial, and class axes of domination and differentiation that uphold them" (p. 7). This conceptualisation then reframes justice not as an outcome guaranteed by law's internal promises, but as a form of interruption that directly challenges legal and structural power (Aguilera & Michael, 2026, p. 12, 16).

Policy and Global Implications

The broader understanding of justice provided by Aguilera and Michael (2026) highlights the importance of collective social action, not simply the pure reliance on courts and other state remedies to challenge what is unjust. However, the dominant narrative that natural and human resources exist for exploitation, commodification, and control to fuel the endless economic growth ignores and marginalises collective struggles, framing local environmental and social movements as peripheral or even disruptive to 'efficient' market-driven governance (Solomonian & Di Ruggiero, 2021, p. 2). Solving environmental problems by values of competition, privatisation, consumption, anthropocentrism, and dominance of Eurocentric techno-scientific epistemology disrupt all challenges to the system (Solomonian & Di Ruggiero, 2021, p. 2; Ciplet & Roberts, 2017, p. 149). All these factors are underlined by neoliberalism, which can be described as " a politically guided intensification of market rule in the public realm" (Ciplet & Roberts, 2017, p. 148).

Environmental justice harms, though they often begin locally, can have broader consequences: contaminated water, degraded land, loss of livelihoods, forced migration, exacerbated regional instability, and heightened tensions over scarce resources. The unfolding 'conflict spiral' in which "the solution of former sustainability issues creates new environmental conflicts through redistribution of environmental benefits and burdens" (Scheidel et al., 2018, p. 595) can only be transformed through the reduction of social metabolism overall, particularly those that are the most damaging and conflictive (Scheidel et al., 2018, p. 595). To achieve reconstructed and just knowledge, alternatives are required, and environmental justice movements with other social movements have much to learn from (Scheidel et al., 2018, p. 595).

Social movements, despite being criminalised by governments and companies, are the most promising forces to achieve and promote social justice and environmental sustainability; they are essential to 'safeguard society' (Scheidel et al., 2018, pp. 585-586, 595). In their acts, they contribute to a larger social purpose, transforming unsustainable resource uses and creating the political debates by "renegotiating public values of what is considered 'sustainable" (Scheidel et al., 2018, p. 585).

Climate policymaking must pay attention to bottom-up approaches in light of the lack of policies at the international level, as they have critical lessons for climate security and policy analysis (Schapper et al., 2025, p. 4).

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