



**PART 1**

A COMMUNITY ACTION TOOLKIT: A ROADMAP FOR USING  
ENVIRONMENTAL RIGHTS TO FIGHT POLLUTION

# Setting Up a Strong Foundation for Advocacy



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# ACKNOWLEDGMENTS

We are incredibly grateful to the Open Society Foundations for funding the development of this toolkit. We are pleased to acknowledge our institutional strategic partners, who provide core funding to WRI: Netherlands Ministry of Foreign Affairs, Royal Danish Ministry of Foreign Affairs, and Swedish International Development Cooperation Agency.

This toolkit would not be possible without the support of The Access Initiative (TAI) and other partner organizations that used and reviewed the toolkit. This includes the Thailand Environment Institute (TEI), Eastern People's Network Thailand, Open Society Forum (Ulaanbaatar, Mongolia), Patrons of Khuvsgul Lake (PKL), Nature Environment and Health Center (NEHC), Center for Human Rights and Development (CHRD), International Transparency Foundation (TF), Wahana Lingkungan Hidup Indonesia (Indonesian Forum for Environment, WALHI) / Friends of the Earth Indonesia, Tifa Foundation, Indonesian Center for Environmental Law (ICEL), MediaLink, Jamaica Environment Trust (JET), Windsor Research Center (WRC), Alliance Marocaine pour le Climat et le Développement Durable (Moroccan Alliance for Climate and Sustainable Development, AMCDD), Association des Enseignants des Sciences de la Vie et de la Terre (Association of Teachers of Life and Earth Sciences, AESVT), Observatoire de Protection de l'Environnement et des Monuments Historiques (Observatory for the Protection of the Environment and Historic Monuments, OPEMH), La Recherche en Action (Research in Action, REACT), Water Dynamic Organization, and Article 19. We would also like to thank our reviewers: Ratchada Arpornsilp, David Boyd, Kathleen Buckingham, Jonathan Fox, Robin King, Saad Filali Meknassi, Constance Nalegach, Uttara Narayan, Lily Odarno, Ugo Taddei, Stefanie Tye, Peter Veit, and Jesse Worker. Chen Shen provided critical support researching and developing the solid waste indicators used in this toolkit. Joseph Foti helped develop the air and water indicators.



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MODULE

**1**

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# Defining Your Problem for Action

# Highlights

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## WHAT:

Conduct a problem tree analysis and evaluate your change strategy options. A problem tree analysis is an exercise that helps unpack the context around a specific problem and identify the causes and impacts. A change strategy review will help you understand the broader sociopolitical context and strategies that shape advocacy choices.

## WHY:

Given the often interdependent and overlapping challenges around pollution impacts and causes, these exercises help you strategically define a problem to better identify feasible policy or political solutions in your country context.

## WHEN:

A problem tree analysis and change strategy review should be done at the beginning of a pollution campaign so they can inform project and advocacy planning.

## WHO:

Both the analysis and the review should be developed with the participation of small group of project leaders and community representatives. They can be carried out in a single meeting or through a series of smaller workshops with the results merged into a comprehensive problem analysis.

## HOW:

- Convene a group of project and community participants to discuss the pollution problem.
- Use the problem tree analysis activity to unpack the economic, social, and political consequences and causes of the problems.
- Using the output of your problem tree analysis, discuss the country context factors, how they may influence your advocacy options, and the possible policy, practice, or behavior change goals you want to pursue.
- Use the output of the analysis to identify and prioritize the different specific issues that should be addressed during your project.
- Identify potential policy and political solutions (demands) that can be incorporated into the project activities, including advocacy campaigns.

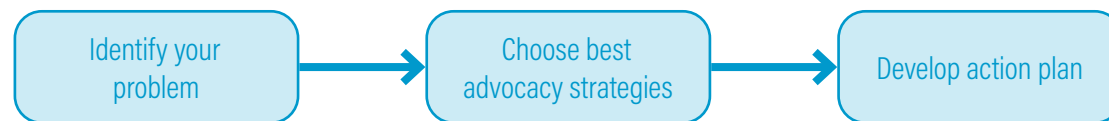
## INTRODUCTION

Overcoming pollution and environmental injustice requires significant time and resources. Most activists want to jump right into campaigning, demanding action from government officials and private actors. But successful advocacy planning should follow three basic steps: defining your problem, choosing influencing strategies, and then developing a targeted advocacy plan (Chandler 2014) (Figure 1). The modules presented in this toolkit will guide you through your choices for each step of this process. Part 1 includes three modules to help you

- **DEFINE** your problem and think through the larger context that should help you choose your advocacy strategies;
- **UNDERSTAND** your community or the community you will be working with as well as the key stakeholders you should engage and the power dynamics that shape their involvement; and
- **ANALYZE** the legal foundation of the right to information, participation, and redress and the pollution control regulatory framework to get a sense of the strengths and weaknesses of environmental rights in your country.

Taking the time to think through how best to tackle specific pollution problems within your country's policy and political framework will help you build a well-organized foundation for

Figure 1 | Advocacy Planning Overview



advocacy and ensure that you are effectively directing your limited resources. More information about developing advocacy campaigns is provided in Module 8, “Bringing It All Together: Using Accountability and Advocacy to Tackle Pollution.”

In any given area, pollution is usually released from multiple sources and can have varying impacts on the surrounding air, water, and land. It can cause a wide range of complex health, environmental, socioeconomic, and cultural

problems that are often difficult to unpack. When local community members express their concerns or make demands about pollution, it is often difficult to clearly identify the range of the problem’s overlapping causes, consequences, or impacts.

Beginning with a clearly defined problem allows you to narrow down your concerns to specific issues that can be addressed with a specific set of policy or political solutions (VeneKlasen and Miller 2007). This should include

- creating a problem statement that is targeted enough to be linked to a specific policy or political solution or strategy;
- thinking through the sociopolitical context, including how the problem is defined, by whom, and how it impacts different people, including women and marginalized groups in the community and other relevant actors;
- differentiating and outlining the causes, impacts, and potential solutions related to the pollution problem; and
- evaluating the country context and what type of advocacy is practically and politically feasible.

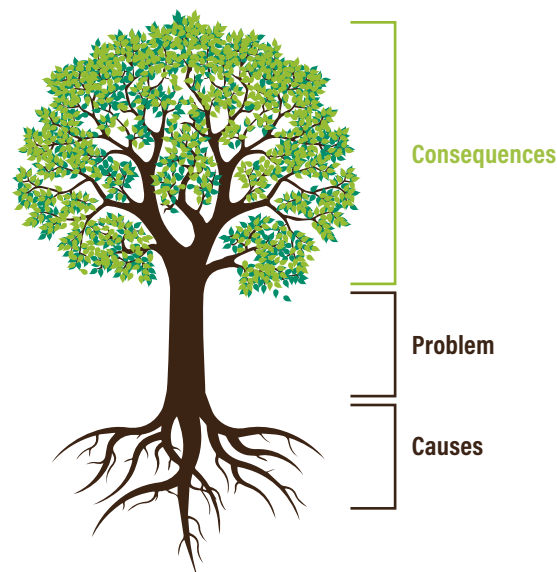


## PROBLEM TREE ANALYSIS

A problem tree analysis is a useful exercise to help unpack the causes and impacts of a specific problem (see Figure 2). In this exercise participants use a tree to represent the different elements of the analysis:

- the roots representing the causes of the problem,
- the trunk representing the problem itself, and
- the branches representing the impacts or consequences of the problem. (Community Sustainability Engagement Evaluation Toolbox 2010)

Figure 2 | Problem Tree Visualization



Source: Adapted from Bright Hub PM (2011).

### ASSEMBLE TEAM

To begin this process a group should be assembled to discuss and agree on the problem or issue to be analyzed. Projects should have a specific problem (such as water pollution from a local facility impacting the ability of local communities to use the water source for livelihood needs). A vague or broad problem (e.g., saving water) will have too many causes for an effective and meaningful project to be developed.

### INVESTIGATE THE CAUSES AND IMPACTS OF THE POLLUTION PROBLEM

Debate and dialogue generated in the process is an essential part of creating a problem tree. Take time to allow people to explain their feelings and reasoning and record this input. Often not everyone will agree on how the ideas generated should be defined. To be most effective, the group should first brainstorm all ideas and then organize the resulting list into the specific problem, cause, or impact categories. It often helps to actually draw a tree and share sticky notes so people can write down their ideas and move them to the right spot on the tree as the discussion continues. Don't worry about the exact wording, as the process will help define the exact problem. Be sure to respectfully include the perspectives of everyone participating.

During this exercise you should identify the economic, social, and political causes and impacts of the problem and how different people may be impacted differently. Each type of impact can be considered one branch on the tree. It also may be important to think through mechanisms to ensure that the process is sufficiently inclusive

and equitable and doesn't overly emphasize the opinions of more vocal or powerful participants. The discussion might address the following questions (Hovland 2005):

- **Does this represent the experience of everyone in the community? What other points of view should be considered? Did we consider issues of age, gender, class, occupation, ethnicity, and geography?**
- **Are some causes and impacts more urgent to tackle than others? Can we identify which ones should be prioritized or addressed first?**
- **Which causes are easiest or most difficult to address? What possible solutions or options might exist? Where could a policy change help address a cause or consequence, or create a solution?**
- **Are we willing and able to challenge powerful vested interests, such as polluting companies? What steps must we take to minimize potential threats to ourselves and partners?**
- **Can we reach consensus about the decisions that have been made or do we need more time? What criteria should we use to determine next steps?**

Many resources outline how to conduct a problem tree analysis and can be used as references (Asian Development Bank 2019). Box 1 discusses one example from the STRIPE project in Tunisia.



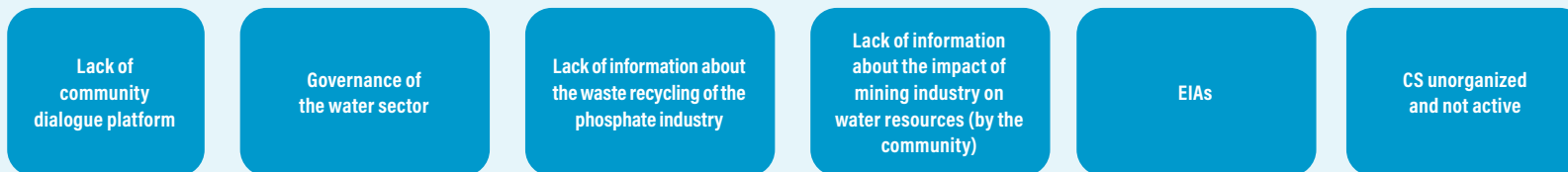


**BOX 1**  
**Tunisia STRIPE Problem Tree Exercise**

Tunisian STRIPE partners focused on the water impacts from mining activity in Gafsa, in southwest Tunisia, and created an initial draft of the problem tree at the STRIPE project kickoff meeting. After consultation with 70 local community members at a follow-up public meeting in Gafsa, the partners revised the problem tree to the version that appears below. They solicited input in two phases—first during an open-ended conversation where participants could freely express their views, and then through direct questioning on the priorities to be taken into account in the deployment of STRIPE project activities.

An iterative process was needed due to the interplay of factors impacting water in Gafsa. Water is used by both the mining and agricultural industries in the region, making it challenging to separately identify the cause and impact associated with each industry. Community members’ concerns also focused on poor water quality and drinking-water services, making it difficult to prioritize the primary problems the STRIPE project should address. Community members and STRIPE partners also found it difficult to differentiate between the health and environmental impacts and the poor governance environment, both in terms of compliance and enforcement with water and mining laws and in terms of the lack of trust between local community members, government officials, and industry actors. More information about the Tunisia STRIPE project is provided in this toolkit’s background document, in the section “STRIPE Country Experiences Using the Toolkit.”

IMPACTS



**Tunisia STRIPE Problems**

**Lack of accountability actors**

- Conflict of interest of CS actors
- Law enforcement
- Mining regulation not sufficient
- Lack of awareness raising
- Social accountability of actors
- Water quality monitoring information is not available
- Control and penalties not applied

**Health problems related to mining activity and the quality-of-life**

- Impact of wastes on health, atmospheric pollution and water quality
- Quality of life issues
- Health issues related to mining activity

**Conflict of water use**

- Water uses conflict (perception vs. reality)
- Low mediatization of water issues
- Water quality

**High footprint of mining on water and environment**

- Efficiency of mining process
- Overexploitation of groundwater
- Optimizing the use of water in the mining process (recycling)

CAUSES

High water consumption in mining activity

Phosphate industry responsibility for discharge

Low impact of civil society (CS) on water and environment mining activity footprints

High impact of mining activity on water and environment

Source: REACT.

## APPLYING THE RESULTS

Once a problem analysis has been completed, project participants should have a comprehensive understanding of the problem's causes and impacts. Partners should be able to use this analysis to prioritize the specific issues they want to address in their project and advocacy campaigns recognizing the community's right to self-determination. This process should be participatory and inclusive and focus on

- working with the local community members as partners in the prioritizing process;
- identifying and evaluating the potential solutions for clarity and feasibility; and
- evaluating what is achievable given the time, financial resources, and human capacity available.

You can deepen your understanding of strategies for better engagement with local community members by using Module 2, "Understanding Community Needs, Concerns, and Interests."

## EVALUATING COUNTRY CONTEXT AND CHANGE STRATEGIES

Advocacy strategies can take many forms—from public awareness campaigns to protests and lawsuits, to collaboration with or lobbying of policymakers (Chandler 2014). The specific tactics and messages you choose will be shaped by the opportunities and constraints

around civic space, corruption, and freedom of expression, and the power and authority of both government officials and elected officials. Understanding this wider context also involves thinking through the risks and potential backlash and threats you and your partners will face when challenging relationships that affect power dynamics. A good advocacy plan will take into account the following context factors:

- **The type of government in place and level of decentralized decision-making, including the presence of state-owned enterprises**
- **The state of the economy and the ability to meet the needs of the most vulnerable**
- **The degree to which government is responsive or accountable to all citizens, including the most marginalized**
- **The level of corruption in the natural resource sector**
- **The degree to which environmental and land defenders are under threat**
- **The power of vested-interest actors over the political and policy environment**
- **The state of the civic space and the influence of civil society**
- **Freedom of expression and freedom of the press**

At the beginning of advocacy planning it is important to unpack this wider enabling environment so you can consider it when engaging stakeholders and local community members, planning advocacy goals, and determining how you want to leverage your environmental rights. Your problem tree analysis should help you develop a clearer picture of what needs to change and the decision-making process you want to influence. This could include a specific policy such as a weak law regarding environmental impact assessments (EIAs), a practice such as weak enforcement of wastewater discharge permits, or a behavior, such as reducing residential trash burning.

Using your problem tree analysis and the above list as a guide, project leaders should discuss these context factors and how they may shape your influence approach. A simple table, as modeled in Table 1, can be used to organize your insights. Write the relevant context factor or factors for each change goal in the appropriate cell.

How this exercise should inform your stakeholder mapping and discussion with local community members is discussed in Module 2, "Understanding Community Needs, Concerns, and Interests." How it will help shape decisions around specific advocacy strategies later in the process is outlined in Module 8, "Bringing It All Together: Using Accountability and Advocacy to Tackle Pollution."



Table 1 | Understanding the Country Context

CHANGE GOAL	CONTEXT FACTORS				
	POLITICAL	ECONOMIC	SOCIOLOGICAL	TECHNOLOGICAL	LEGAL
Policy					
Practice					
Behavior					









MODULE

**2**

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# Understanding Community Needs, Concerns, and Interests

# Highlights

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**WHAT:** Use a stakeholder mapping exercise and a community needs assessment to understand and collect information on local community needs, pollution concerns, and interests.

**WHY:** Both exercises will help you develop a clear picture of the community where you want to work and its experiences addressing pollution impacts. A stakeholder mapping exercise will allow you to identify the key organizations and institutions relevant to your project plan and those that could make your desired outcome more or less likely. A needs assessment conducted through interviews, focus group discussion, public meetings, or a survey will help you deepen your understanding of the social, political, and economic context surrounding pollution. It will also give you a sense of local community members' level of trust and past experiences attempting to address the issue.

**WHEN:** Both the stakeholder mapping and community needs assessment should be done at the beginning of a pollution campaign after the problem tree analysis.

**WHO:** A small team of project leaders should meet to conduct the stakeholder mapping. A small team of project leaders should also work to develop and implement the community needs assessment. Ideally the same set of project leaders should conduct both the mapping and assessment to ensure continuity.

## HOW:

- Conduct a desk review to collect existing articles, studies, and other resources about your community and summarize and present your findings for other project participants.
- Identify and invite a small group of project leaders and community members to participate and hold a meeting to complete the stakeholder mapping analysis.
- Write up the results from the stakeholder mapping to share with the larger community.
- Identify and assemble a team to carry out the community needs assessment.
- Hold a series of meetings to decide how to carry out the needs assessment. This includes deciding which approach you will use, who will implement it, when and where it will take place, and the questions you will ask.
- Write up the results from the community needs assessment to share with the larger community.
- Hold a community meeting to share the results of your community mapping efforts and collect feedback.

## INTRODUCTION

The first step to working with local communities and organizations is identifying and understanding the individuals, community leaders, groups, and other organizations concerned about pollution and other environmental challenges, including their existing knowledge, perceptions, and interests. In this toolkit, we suggest that information be collected by conducting (1) a stakeholder mapping exercise and (2) a community needs assessment.

In some cases, outside experts and the media may have written studies or articles about the key pollution problems in the community where you will be working. Before beginning any stakeholder mapping or community needs assessment, conduct a thorough desk review to collect these existing resources. Ask local community members if other researchers or journalists have been working in the area (Center for Community Health and Development 2019).

A stakeholder mapping exercise will allow you to develop a clear picture of the specific stakeholders who might be involved in the project or who could influence the outcome (Leventon et al. 2016). The exercise can help you assess how best to communicate and frame issues for different interest groups during the project, including advocacy campaigns.

Stakeholder mapping can also be used to frame discussion of who can help or hurt your ability to take action. This often involves considering issues of power—whom you need to influence,



who can influence your campaign, and what can be done to influence the identified person or institution with power. Your country context table from Module 1 should help you think through the actors who should be on your map, as well as the power they have to influence your campaign. Power mapping is also discussed in Module 8, “Bringing It All Together: Using Accountability and Advocacy to Tackle Pollution.”

A community needs assessment will allow you to not only systemically collect information about people’s needs and concerns with respect to pollution but also understand and record their previous experiences using their environmental rights. It can help identify the capacity building needs that will have to be addressed as part of the project and ensure that you carefully think through the needs and concerns of the community’s most vulnerable and marginalized groups. Community needs assessments can also help project leaders identify storytellers and think through compelling story ideas about why your issue matters and how it relates to people.

The outcome of stakeholder mapping and community needs assessment will also allow project leaders to understand and therefore better address

- which policymakers and government institutions should be a focus of project activities;
  - how to “match” the right accountability tools during training and advocacy; and
  - how well transparency, participation, and pollution laws are being implemented.
- Marginalized stakeholders may lack the recognition or capacity to participate in collaboration efforts on an equal basis, and particular effort must be made to ensure and enable their participation. Inclusion can include a broad range of attributes, including gender, race, age, socioeconomic status, education, and nationality or subgroup (such as indigenous communities). Thus it is worth paying particular attention to how you plan to discuss and address the following issues to ensure that your mapping exercise and community needs assessment identify these stakeholders’ attributes and the interests (positive or negative) of traditionally marginalized people in the project:
- Unequal access to, and control over, resources and the existing distribution of economic and political power.
  - Disempowerment of group in the political arena and the social, racial, cultural, and economic factors that prevent them from participating in informal and formal policy negotiations.
  - Gendered and other forms of different communication and relation patterns and how you will ensure equal participation of all so that one group or individual is not able to dominate the process or conclusions.
  - Traditional and political roles and any heritage of domination patterns and how and where these patterns are typically reinforced.

## STAKEHOLDER MAPPING

The purpose of the stakeholder mapping is to identify stakeholders or interest groups associated with your project objective, problem, or issue. A small group of about six to eight project leaders and community members, with varied perspectives on the problem, should be enough to create a good brainstorming session to identify and list potential stakeholders (Allen and Kilvington 2010; Leventon et al. 2016). However, it is critical that the larger community be given an opportunity to review the primary results and provide feedback. This is an important step because stakeholder mapping can both constrain the interest and knowledge of the people doing the mapping and impact the subsequent project and advocacy planning (Allen and Kilvington 2010). Creating opportunities for inclusion will also help ensure that local community members support and trust the proposed solutions that come out of the engagement with identified stakeholders, and that the community actively participates in achieving them (Leventon et al. 2016).

**WHO ARE THE RELEVANT STAKEHOLDERS?**

Many different organizations and actors could be interested, relevant stakeholders in the local community where you are working. Table 2 lists possibilities.

Table 2 | Stakeholder Examples

LOCAL GOVERNMENT AGENCIES
Nongovernmental / civil society organizations
Local community organizations
Women’s organizations
Youth organizations
Trade unions
Private sector
Private philanthropic organizations
Academic/research/policy think tanks
International development partners
Independent accountability organizations
Service providers
Polluting companies
Police
Media
River basin organizations or regional water authorities
Regulators and ministry officials (mining, water, environmental) at national, subnational, and local levels
Agricultural actors
Religious organizations
Private ombudsperson’s office
Political parties
Financial actors
Consumer association
Human rights institutions
Indigenous organizations
Industry associations or individual companies

Stakeholders can be characterized by the degree to which they will be impacted by the project objectives and actions. Primary stakeholders are those directly affected, either positively or negatively, by the outcomes you hope to achieve, while secondary stakeholders are indirectly affected (Community Tool Box 2019). It also can be helpful to think about key primary or secondary stakeholders that have the power to support or impede the policy or political outcomes you hope to achieve. Figure 3 provides an illustrative list of the types of stakeholders to consider in a stakeholder mapping.

**IDENTIFYING STAKEHOLDER INTEREST AND RESOURCES**

Once the list is assembled, the mapping group should consider the interest and resources available to each stakeholder, along with the stakeholder’s support for or opposition to addressing the pollution problem. Cataloging how the stakeholder could mobilize those resources to support or limit the policy or political outcome is also helpful. Worksheets to list different stakeholders and their interest and resources are provided below. The following questions can be used to guide the discussion:

Figure 3 | Stakeholder Categories



Source: Authors.



- **Who are the relevant stakeholders who have been affected by or who have attempted to find solutions to the pollution problem we are trying to address?**
- **Have we included in our list women’s groups or other groups representing traditionally marginalized communities who have concerns regarding the social or cultural impacts of pollution, such as damage to historical sites or increased domestic violence in response to economic hardships?**
- **Could the group weaken advocacy of or political support for the project goals or objectives we are considering?**
- **Have we included any specific marginalized stakeholders that are hindered from participating in the social, commercial, and political life of their communities and in public debate?**
- **Does the presence and/or support of the actor or group provide a net benefit to, strengthen, or enhance the project?**
- **Is the actor or group capable of influencing the direction of the project’s activities?**
- **What interest does each stakeholder have in the policy reform relevant to the project?**
- **Have we discussed how we want to engage with polluting companies? Will they be a target we want to consider and, if so, how does this impact our mapping?**
- **To what extent are the stakeholders able to address issues and incorporate the interests, concerns, and knowledge of marginalized groups equally into policymaking? How are inputs used?**
- **Does the stakeholder support or oppose the policy reform relevant to the project?**
- **Can we spot stakeholders that are particularly opposed or open to gender issues or issues that are the concern of marginalized groups?**
- **Have we taken into consideration their power to influence our project?**
- **What resources could each stakeholder use to enhance or impede the project? These resources could be in the following areas:**
  - Deeper knowledge of the issue or policy context of the problem
  - Skills and time
  - Financial
  - Access to or control over vital information
  - Status/social position
  - Legitimacy
  - Coercive power
  - Can the stakeholder mobilize its resources to the benefit of the project?

The results of stakeholder mapping exercise are then used to identify the people who should be involved in the community needs assessment and will help shape the specific questions asked of community representatives.

The attached worksheets can be used to record and organize the conclusions of the discussion. They should be used when thinking through power, targets, and advocacy goals as outlined in Module 8, “Bringing It All Together: Using Accountability and Advocacy to Tackle Pollution.”

# SHEET 1. List of Groups by Sector

Brainstorm groups and individuals in each sector that should be included in stakeholder mapping exercise. Feel free to add or remove categories as needed to make the exercise relevant to your specific project goals and objectives.

PARLIAMENTARIANS	GOVERNMENT (NATIONAL, REGIONAL, AND LOCAL)	CIVIL SOCIETY	COMMUNITY	MARGINALIZED GROUPS THAT NEED SPECIAL ATTENTION	MEDIA	LEGAL EXPERTS	EXPERTS	PRIVATE SECTOR / POLLUTION COMPANY	OTHER



## SHEET 2. Summary of Analysis for Each Group Identified

Using the list created in Sheet 1, answer the questions about each group or individual identified. Feel free to add columns and rows to make the sheet relevant to your project goals and objectives.

GROUP BY SECTOR	WHO SPECIFICALLY SHOULD WE PRIORITIZE WITHIN THIS SECTOR?	WHAT IS THEIR PRIMARY INTEREST?	WHAT RESOURCES COULD THEY BRING TO THE PROJECT?	HOW SHOULD WE ENGAGE (DEGREE TO WHICH THEY WILL BE INVOLVED IN VERSUS INFORMED OF OUR WORK) AND TO WHAT DEGREE (ONGOING, FREQUENTLY, OCCASIONALLY)?	HOW WILL WE RESPOND IF THEY OPPOSE OUR PROJECT OBJECTIVE?
<b>Parliamentarians</b>					
<b>Government</b>					
<b>Civil society</b>					
<b>Community</b>					
<b>Marginalized groups</b>					
<b>Media</b>					
<b>Legal</b>					
<b>Experts</b>					
<b>Private sector/ pollution company</b>					
<b>Other</b>					

**MAPPING STAKEHOLDER ANALYSIS**

Once the stakeholders have been identified and cataloged, a map of influence can be created to help you determine which stakeholder you must address in your campaign to have the greatest impact. A stakeholder mapping template is provided in Sheet 3. A hypothetical example developed by The Access Initiative (TAI 2010) is also provided in Box 2.

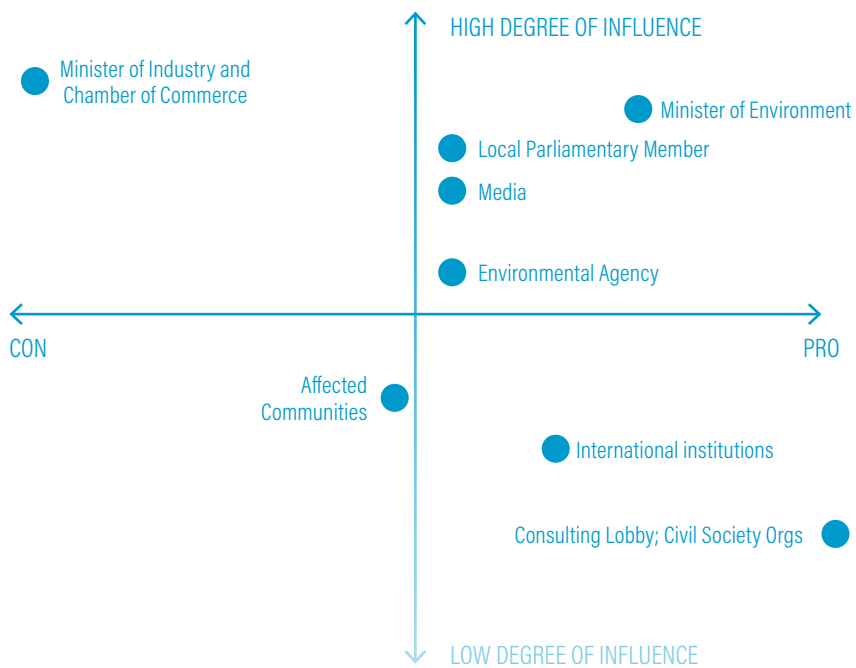


**Box 2 | Stakeholder Mapping Example**

In this hypothetical example, a local community, concerned about the contamination of its local water source, is unable to access information about pollution and hasn't been given the opportunity to comment on new local development plans that the community fears will make the problem worse. After a problem tree analysis determines that the country lacks transparency and public participation provisions in environmental impact assessment (EIA) procedures, the community decides to advocate for a law and policy change that will codify in the EIA procedures the public's right to access information and participate in decision-making.

First, community members organize a meeting with several knowledgeable allies to create a list of relevant stakeholders. Based on multiple brainstorming sessions, they develop a list that includes key government ministers (including the ministers of environment and industry), the chamber of commerce, the environmental protection agency, the communities directly affected by the policy, local or national members of parliament (depending on the scope of the policy), the EIA consulting lobby (scientists and universities who would benefit from the business of conducting EIAs), civil society organizations, the media, and international institutions. After a series of meetings where community members outlined each stakeholder's interest, resources, and influence over their goal, they create a stakeholder map.

Based on this map, project leaders agree that it is very unlikely they will gain support from the chamber of commerce or the industry ministry. While affected communities are supportive of the effort, they are marginalized and often ignored, so their support will not be enough. The leaders agree they should try to work with the environment ministry, local members of the national parliament who have voiced support for better environmental policies, the media, and the local environmental agency.



## SHEET 3. Map of Each Group's Level of Supportive Influence

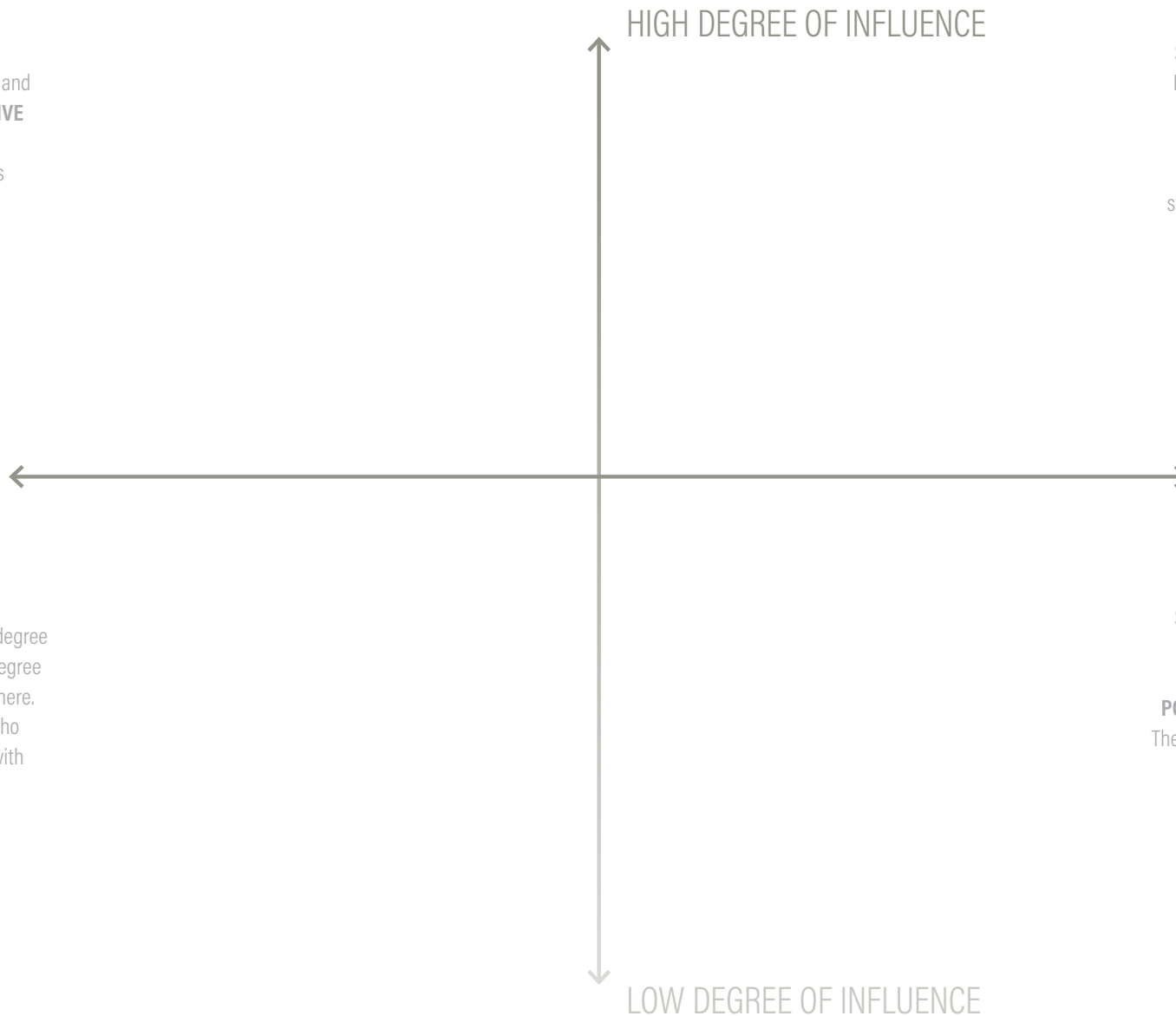
Place the name of each group identified in the appropriate quadrant to represent the degree of influence it could have over the project and its positive or negative interest in the project goals and objectives (Community Tool Box 2019).

Stakeholders who have a **HIGH** degree of influence and a **HIGH** degree of **NEGATIVE** interest go here. These are powerful stakeholders opposed to your effort.

Stakeholders who have a **HIGH** degree of influence and **HIGH** degree of **POSITIVE** interest go here. These are powerful stakeholders who support your effort.

Stakeholder with a **LOW** degree of influence and a **LOW** degree of **NEGATIVE** interest go here. These are stakeholders who oppose your efforts, but with limited power.

Stakeholders who have a **LOW** degree of influence but a **HIGH** degree of **POSITIVE** interest go here. These are stakeholders who support your efforts, but with limited power.





## COMMUNITY NEEDS ASSESSMENT

A community needs assessment will guide you in your work with local communities and organizations. It is a systematic collection of the skills, knowledge, and attitudes of the people from the local community as well as other supportive stakeholders identified in the mapping exercise. Further, involving community members through an assessment helps set the right tone for your project by ensuring that they are involved in the project from its inception, including in information collection and decisions regarding advocacy and collective action.

A community needs assessment can be used to help project leaders identify the following:

- Priority information needed by local communities to address their pollution or other environmental challenges.
- How different groups of citizens are able to voice their concerns on pollution or other environmental issues, including where, when, and how they participate in environmental decisions.
- Community members' level of trust in different government institutions.
- The channels or accountability systems they use to track and make complaints about pollution and other environmental challenges.

- Any gender differences in the information needed, the mechanisms used for participation, and the use of accountability mechanisms, or differences between different groups within the community.
- Past efforts, including community members' perspectives on progress and failure in addressing pollution and other environmental challenges and any threats they faced when raising concerns.

In order to define the scope of the assessment, your project team must have already used Module 1, "Defining Your Problem for Action," and determined which pollution and other environmental issues will be addressed, which geographic areas will be covered as part of the project, and the general advocacy approaches that can be used to achieve the project's overall goals and objectives. The stakeholder mapping exercise should have helped identify the different community actors and their general concerns and activities with respect to key pollution and other environmental challenges. It also can help shape the questions.

Although the needs assessment is an important first step, identifying problems and building a relationship between project leaders and local community members is an ongoing process. You should consider the community needs assessment to be the initial step in cultivating and engaging the community by treating them like partners. The process should provide community members with opportunities to take the lead whenever possible.

The assessment process can be divided into four phases:

- Development of questions
- Collection of data
- Analysis of data
- Sharing of findings with the wider community

We strongly recommend that a small group of project leaders clearly define roles and responsibilities for all phases of the community needs assessment, and realistically evaluate the amount of time and resources available to carry it out. This will help ensure that the needs assessment accurately describes the community and the barriers and resources available to realistically address the problem. This evaluation should then help shape the decisions regarding where, when, and how the data will be collected, and it should clarify realistic expectations for the project.

### HOW WILL DATA BE COLLECTED?

A number of different approaches can be used to implement a needs assessment. Listening sessions and public forums, made up of a range of community actors, can be organized where the audience answers specific guiding questions. A series of formal interviews and/or focus group discussions can be organized with specific subsets of stakeholders. Finally, an online or paper survey can be created. Each method has its strengths and weaknesses (summarized in Table 3), and project leaders should spend some

time thinking through which approach will achieve the best results and collect the most relevant information for their project.

Choosing a suitable approach depends on

- **the audience you want to reach;**
- **the information you want to collect;**
- **the involvement you hope to generate and information you hope to communicate; and**
- **the resources available.**

It is likely that you will collect a variety of opinions, including some that contradict themselves. This is okay. Rather than look for consensus, the best participatory processes should adopt the “shared adversity principle,” which recognizes that compromise is inherent to the process. This approach prioritizes communication and accommodation and highlights explanation and dialogue around the diversity of opinions rather than negotiation (Reed 2008). On a practical level, this means clearly planning for and communicating the trade-offs that will be necessary to achieve your broader policy goals.

Table 3 | Data Collection Options

APPROACH	PROS	CONS
Listening session and public meetings	Easy to collect information from wide range of actors at same time.	Who attends is somewhat arbitrary and could bias the results or discussion.
	Minimal time and energy needed to organize.	Difficult to ensure that all stakeholders categories are included and/or participate.
	Allow leaders to adapt questions based on immediate feedback from the group and facilitate a broader discussion.	Compiling, organizing, and analyzing results requires significant time and energy.
Focus group discussion	Can generate more information as a learning dialogue through facilitated discussions.	Requires training in how to facilitate the discussion and capture the information.
	Can be organized to have community members rank problems and prioritize solutions through facilitated discussion.	Compiling, organizing, and analyzing results requires significant time and energy.
	Flexible approach allows project leaders to gather single- or multistakeholder groups for discussion.	Process tends to be extractive. Local community members might not gain any new information and serve only as information providers.
Interviews	Opportunity to collect thorough, detailed answers.	Difficult to ensure that all stakeholders categories are included and/or participate.
	Easier to collect input from people uncomfortable speaking in groups.	Synthesizing and analyzing cumulative results requires significant time and energy.
	Can adapt if community members can't easily travel to central location.	Collecting input one person at a time is time-consuming.
Survey	Easier to systematically compile, organize, and analyze results.	Labor- and resource-intensive data collection methodology, including writing up the survey questions.
	Findings can be more detailed and help better identify advocacy messages and rank problems.	Ensuring collecting data from all relevant stakeholders requires time, energy, and skill. A lack of responses, survey fatigue, incomplete or illegible responses, or illiteracy can impede collection of results.
	Easier to share the results with a wider range of stakeholders and interested parties.	Doesn't allow people to meet and talk face to face or help people understand other people's perspectives.

### WHO SHOULD BE INCLUDED?

The stakeholder mapping exercise should help you identify the individuals you want to include in your assessment, so take time to define your audience. You may also consider representatives from local organizations or groups if your stakeholder mapping has identified them as critical to the success or failure of your goals. For example, in the hypothetical stakeholder mapping presented earlier, the project leaders agreed they should try to work with the environment ministry, local members of the national parliament, the media, and the local environmental agency. In this case, interviewing or surveying representatives from these groups may make sense.

However, if you are conducting a focus group discussion or public meeting, consider the implications of how the different stakeholders are grouped together, including how the power and cultural dynamics could impact the dialogue. This includes people and groups traditionally marginalized as well as interest

groups active in the community. For example, inviting both police and women and ethnic minorities into the same focus group may create challenging situations, as could inviting private sector or trade union representatives and local workers (see Box 3).

### WHAT INFORMATION SHOULD BE COLLECTED?

The questions asked during the community needs assessment must accurately capture the community's previous experience and attempts to address community members' concerns about pollution and other environmental problems and their perceived impacts. We strongly recommend that you research best practice when considering the different data collection techniques. Table 4 provides general categories of information that could be included in an assessment. Specific sample survey questions are provided in the Module 2 Annex. These questions can be adapted for each type of data collection methodology option.

### Box 3 | A Gender-Sensitive Participatory Approach

In addition to the community needs assessment approach used by STRIPE partners, a wide range of other participatory data collection methodologies are followed by the international development, community health, and environmental communities to create an accurate picture of community actors and needs. These approaches range in scope and complexity, including social network mapping and rural (or rapid) appraisal (Institute of Development Studies 2013).

Despite the basic principle of ensuring participation by everyone, however, experience shows that many members of the community often remain excluded from the process, including women, regardless of which specific approach is used. The International Centre for Integrated Mountain Development offers the guidance below for a gender-sensitive participatory approach (Gurung and Leduc 2009). Many of these tips can be extrapolated to other ignored or marginalized community members.

- If social and cultural barriers prevent men and women from sitting together, hold separate focus group or interview discussions.
- Hold events at an appropriate time and setting when women are free to participate and when they will feel comfortable.
- Use local languages and ensure that the tools chosen are culturally, socially, and politically appropriate to the situation.





Table 4 | Question Categories

CATEGORY	QUESTIONS TO CONSIDER
<b>Demographics</b>	Age, sex, occupation (employment status, including student and unemployed), primary source of income, education, household members, marital status. <sup>a</sup>
<b>Pollution concerns</b>	Level of concern regarding quality and quantity of air, water, or land in the community; how water, land, and other environmental resources are used in daily life; and perceived health, environmental, and socioeconomic impacts.
<b>Environmental information needs</b>	Information wanted, attempts to obtain, opinion on best options for obtaining, how used.
<b>Participation experience</b>	Awareness of and previous attempts at participation, best way to get your participation, type of participation and satisfaction with experience.
<b>Accountability experience</b>	Awareness of mechanisms available, ways promoted and used in community, if and how used and satisfaction with outcome, impact of use.
<b>Health</b>	Perceived health problems that community members think may be associated with pollution or other environmental problems and how these problems impact their daily lives.
<b>Level of trust</b>	In government institution at the local, regional, and national levels, in civil society groups, and in other stakeholder groups relevant to pollution and other environmental problems.
<b>Water or similar resources (if relevant)</b>	How the resource is obtained and if there is a cost to obtain it.

<sup>a</sup> Privacy concerns may be associated with the collection of this personal information, which may not be appropriate in some contexts.

## IMPLEMENTING YOUR COMMUNITY NEEDS ASSESSMENT

Survey questions are typically anonymous and should be simple to answer. Survey designers should try to eliminate all technical jargon that could make the survey difficult to understand. Designers can use simple scales to measure the importance of each answer, such as ranking answers from 1 to 5 or checking an answer based on a scale, from not important to very important. For open-ended questions, try to minimize the amount of writing needed to

answer them, as survey respondents often skip these questions when given the chance.

For focus group sessions, brief participants and the facilitator on the aims and objectives of the session and establish ground rules. Request permission to record their answers and clarify the level of anonymity that is needed (no names recorded). Keep focused and maintain momentum, so that you get closure on each question before moving on to the next one, and make sure someone is recording the data

gathered from the discussion. Make sure you do not bias the questions with your own opinions, and let everyone know there are no right or wrong answers, only differing points of view. They don't need to agree with others but must listen respectfully.

When conducting interviews, arrange time and places in a familiar setting. Consider providing information to the interviewees prior to the interview (e.g., the general topics that you'll be talking about with them) and ensure that you will have uninterrupted time together. Finally, try to transcribe interview notes as soon as possible after the interview, when nuances, body language, and asides are still in your memory. Examples of survey findings that resulted from interviews STRIPE partners organized in the Morocco project are provided in Box 4.





BOX 4

## Morocco Community Needs-Assessment Findings

STRIPE partners in Morocco organized semistructured interviews with resource stakeholders (including local authorities and experts in the field) and focus group discussions. They disseminated questionnaires through their networks to collect a wide range of opinion on access to waste management information in both Tangier and other areas of Morocco. In Tangier, the needs assessment highlighted the following key observations that informed the partners' work:

- Access to environmental information was insufficient.
- Solid waste management is a high priority, especially the impact on health, the need for citizen participation and the involvement of civil society in decisions. Leachate problems and the transport of waste through their communities along with the lack of respect for social concerns were major concerns expressed by the majority of the population surveyed.
- Residents get most of their information from civil society organizations and the media, especially through their internet websites. Despite the adoption of the new right to information law, they felt it was difficult to get information from the government.
- The majority of the people living in Tangier have never participated in an impact study or other policy forum and did not feel they had the tools to negotiate with authorities. They felt there was insufficient communication from responsible government agencies.
- Despite the fact that civil society organizations were a primary source of information, community members often had strained relationships with them, which limited their access to national-level information.



## REPORTING BACK THE FINDINGS

Project leaders should plan to report their assessment findings to the local community and other interested stakeholders. This can include a formal presentation or a written report. But in either case, the assessment team must discuss and analyze the data and come to clear agreement about the focus and meaning of the information. Project leaders should look for the main patterns and evaluate important variations between different demographic groups, such as gender, socioeconomic status, or age.

It is essential that project partners don't just present raw data but synthesize the information into clear and interesting findings and share the meaning of the results through clear messages. While it is appropriate to provide recommendations for next steps or ideas on how to use the results, project leaders should also make sure they create a space to collect feedback from interested stakeholders, including one-on-one follow-up conversations if necessary.

## TIPS FOR DEVELOPING YOUR COMMUNITY ASSESSMENT

To ensure that local community members have meaningful involvement and control over how the information will be used during the STRIPE project, project leaders should work closely with community representatives to develop and perform the community needs assessment.

Project leaders must pay special attention to power differences within groups and recognize that individual community members will likely disagree on problems and solutions. Thinking

through who has access to and control of resources and who benefits from them should be part of the needs assessment. Project leaders should ask themselves how they will document and address the differences in opinions and concerns within the community as well as ensure that the project itself does not create added conflict or division. The perspectives of community members who work for a polluting facility may be different from those of local people who need a clean environment for their livelihood, such as fishers or farmers.

Conducting a needs assessment is the beginning of your advocacy effort as it helps develop an ongoing relationship with local community members. If done strategically, it helps identify solutions that become the foundation of your advocacy demands. However, working with local communities can also raise unrealistic expectations, so it is essential that project leaders not promise more than they can deliver (Center for Community Health and Development 2019). It is important to clarify expectations in the introduction to the community needs assessment.

Project leaders can look for additional resources relevant to their region and problem to help them create a comprehensive picture of the community where their project will be taking place. Some additional resources are provided in Box 5. How to use the findings of your community assessment in conjunction with other research to develop project activities, including advocacy campaigns, is discussed in Module 8, “Bringing It All Together: Using Accountability and Advocacy to Tackle Pollution.”



## BOX 5

### Additional Stakeholder Mapping and Community Assessment Resources

The following resources provide additional information you can use to enhance your stakeholder mapping and community needs assessment processes.

- The Community Tool Box (2019), a free, online resource for those working to build healthier communities and bring about social change, available in English, Arabic, and Spanish.
- Lisa VeneKlasen with Valerie Miller, *A New Weave of Power, People, and Politics: The Action Guide for Advocacy and Citizen Participation* (2007).
- Oxfam and International Federation for Human Rights, *Community-Based Human Rights Impact Assessment: The Getting It Right Tool* (2011).
- Environmental Law Institute, *Community Environmental Health Assessment Workbook* (2000).
- National Association for State Community Services Programs, “Community Action Guide to Comprehensive Community Needs Assessments” (2011).
- Community Action Partnership, “Community Needs Assessment Resource Guide” (2018).
- Kathleen Buckingham et al., *Mapping Social Landscapes: A Guide to Identifying the Networks, Priorities, and Values of Restoration Actors*, published by World Resources Institute (2018). Also available in Portuguese.
- Will Allen and Margaret Kilvington, “Stakeholder Analysis” (2010).
- Research to Action, “Stakeholder Mapping” (2015), a great reading list.
- Claudia Ituarte-Lima, Maria-Therese Gustafsson, and Caroline Sellstone, “The Right to a Healthy Environment and the Role of National Human Rights Institutions” (2020), webinar series report.



## MODULE 2 ANNEX: UNDERSTANDING COMMUNITY NEEDS, CONCERNS, AND INTERESTS

### SAMPLE QUESTIONS

Below are sample questions you can use or modify for your community needs assessment.<sup>1</sup> You should not use every question. We provide them to showcase the range and type of questions that could be used and adapted for a survey, interview, focus group discussion, or public meeting.

These questions were developed to support our partners focused on water pollution. Included are questions that attempt to collect information on opinions about water quality, water quantity, and service delivery parameters, as well as the different ways water is used by the community. Pollution of land may likely need to cover a similar set of parameters, while questions about air pollution will likely only need to focus on air pollution sources and impacts, and the level of concern.

### DEMOGRAPHICS

Age \_\_\_\_\_

Sex \_\_\_\_\_

Occupation (*employment status, including student and unemployed*) \_\_\_\_\_

Education \_\_\_\_\_

Household members \_\_\_\_\_

Marital status<sup>2</sup> \_\_\_\_\_

What are your sources of water for additional uses beyond daily life (agriculture, livestock, informal gardening, fishing)?  
\_\_\_\_\_  
\_\_\_\_\_

How much does your water cost? Who is the supplier? Is this a public utility or a private corporation?  
\_\_\_\_\_  
\_\_\_\_\_

What is your opinion of the quality of water you use daily? (Do you believe your water is safe to drink?) What is your level of concern (none to very high)? Please explain.  
\_\_\_\_\_  
\_\_\_\_\_

Has the quality of water changed over time? Did water quality increase or decrease in your opinion? Are you aware of any reports or evidence that confirm your perception?  
\_\_\_\_\_  
\_\_\_\_\_

Do you have sufficient water for your daily uses (personal, cooking, sanitation, etc.)?  
\_\_\_\_\_  
\_\_\_\_\_

Do you know of any areas in your community that get no water? That get limited water? What are these areas? Which get poor-quality water? Does anyone have to boil water before drinking it or cooking with it?  
\_\_\_\_\_  
\_\_\_\_\_

What sources of water pollution are of greatest concern to you (industries, agriculture, poor or nonexistent wastewater treatment)? Please give the names of these sources.  
\_\_\_\_\_  
\_\_\_\_\_

What is your level of concern regarding water availability? Please explain.  
\_\_\_\_\_  
\_\_\_\_\_

What policies do you think are needed for drinking water? For wastewater? For water quality? For water quantity? For flood protection?  
\_\_\_\_\_  
\_\_\_\_\_

### WATER

How do you get water for drinking?  
\_\_\_\_\_  
\_\_\_\_\_

How do you get other water for other daily uses (washing, bathing, and cooking)? Who does the collecting?  
\_\_\_\_\_  
\_\_\_\_\_

What are your sources of water for daily life (tap or pipe, groundwater, water bodies or catchments)?  
\_\_\_\_\_  
\_\_\_\_\_

Please list any health concerns you might have about using the water in your local community. Are you aware of any reports or evidence that confirm your concerns? Are you aware of any of your neighbors or colleagues having experienced similar health impacts or have similar concerns?

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Is performance of services an issue? Is there a feedback mechanism for municipal drinking water supply services?

---

*If yes, what is it?* \_\_\_\_\_

### INFORMATION NEEDS

What information do you need most in relation to the operation of a business activity (fill in names of relevant businesses) in your area?

Location of business activity

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Company owner information (parent company)

---



---

Contact information for officer in charge of addressing community concerns

---



---

Impacts on economic activity

---



---

Job vacancy

---



---

Size of labor force

---



---

What environmental information related to the business operation do you need most? (rank)

**FILL IN RANK #**

Amount of pollution company is allowed to release into the environment

Current pollution levels

Type or name of pollutants being discharged into the environment

Company's efforts to restore the environment

Activities taken to prevent pollution or environmental destruction

Impacts on drinking water, bathing, and other household uses

Impacts on water quality in the natural environment

Impact of activities on my livestock, agriculture, and/or fishing stocks

Negative and direct impacts on health

Types of laws and regulations regarding the public release of pollution information

Compliance and enforcement information

Other (fill in)

What information do you need to know to assess whether the public or private water service company is doing well in providing drinking water?

**FILL IN RANK #**

Annual reports on budget and expenditure

Rehabilitation plans

Impact on natural sources of water

Extension of pipes

Information on water lockoffs or prepaid water meters

Information on complaint mechanisms



If the environment ministry, regional environmental agency, or local government announces information about the environment in your area through the media, what information do you think is most important to announce? (rank on a scale of 1 to 5, with 5 being most important)

1 2 3 4 5

- Company's efforts to restore the environment
- Environmental management plans from the company or local government
- Compliance and enforcement information, including violation notices, restoration obligations, and fines
- Data from companies that have polluted the environment
- Data from companies that have made efforts to prevent pollution
- Where water points are
- Data on environmental quality (water, land, and air quality)
- Type or name of pollutants being discharged into the environment
- Impacts on drinking water, bathing, and other household uses
- Data on public health related to company's discharges
- Data on impact of activities on my livestock, agriculture, and/or fishing stocks
- Other (fill in)

What is the best form or most appropriate media source of information to ensure you receive it easily and on time?

**FILL IN RANK #**

- No announcement needed; information will be requested if necessary
- Announcement in local newspaper or radio
- Brochure or flyers
- Bulletin board at government agencies
- Government's official website
- Community meetings
- Social media or text
- Other (fill in)

How frequently do you search for information related to environmental resources?

- Never
- Depending on needs
- Quite frequently, 1-3 times a month
- Very frequently, multiple times a week

What is your primary source for environmental information?

- No source
- Television/radio
- Signs around the location

- Newspaper (printed and online)
- Government library or documents
- Bulletin board
- Friends and neighbors
- Civil society organizations
- Universities or colleges
- Requests based on the mechanism in the public disclosure of information policy
- Government's official website (environment ministry, environmental agencies, etc.)

Have you ever tried to access official government agencies to obtain information on the following issues?

**YES NO**

- Water quality
- Water quantity
- Company compliance with environmental requirements
- Protection of water sources
- Methods to minimize waste

If yes for any of the above, which agency? (local, regional, or national). Please give name. How did you obtain the information?

\_\_\_\_\_

*In-person meetings* \_\_\_\_\_

*Letters or phone calls* \_\_\_\_\_

Formal requests for information through right to information law or constitutional requirement

\_\_\_\_\_



Have you ever attempted to access and understand any of these technical regulatory documents? (yes, no, don't know)

YES	NO	DON'T KNOW
		Environmental impact assessments (EIAs)
		Discharge permits
		Monitoring report
		Compliance and enforcement report
		Public health assessment documents
		Concession licenses
		What barriers do you encounter to getting information? (rank each on a scale from 1 to 5, with 5 being the greatest obstacle)
		Not my right to know
		Takes too much time to find
		Process of getting information is too complicated
		Takes too long to travel and get information
		Cost
		Information I can get is too difficult to understand
		Not clear on why I would want to receive it or how to use it

## PARTICIPATION

YES	NO
	Are you currently involved with any community organizations? If yes, please list.
	Are you involved with any organizations that have an environmental focus, goal, or objective?
	What is the best way to get your participation on environmental projects and policy decisions? Would you be willing to:
	<i>write comments and submit them by mail or email?</i>
	<i>attend public meetings sponsored by the government?</i>
	<i>attend public meetings sponsored by the private sector?</i>
	<i>attend public meetings sponsored by community groups?</i>
	<i>participate in an informal one-on-one meeting?</i>
	<i>participate in a telephone interview or survey?</i>
	<i>participate through a website?</i>
	<i>attend demonstrations or protests?</i>
	<i>fill out surveys?</i>
	<i>attend focus group discussions?</i>
	<i>become a member of an ongoing workgroup or coalition?</i>
	<i>become a member of group led by a civil society organization or wage advocacy campaigns?</i>
	<i>Other (please specify)</i>

Since when have you participated through the following mechanisms? (either in what year or never, over the past 5-10 years, over the past 2-4 years, over the past year)

- 5-10 years
- over the past 2-4 years
- over the past year
- Submitted written comments by mail or email*

## CONSULTATION

- Attended a public meeting sponsored by the government
- Attended a public meeting sponsored by the private sector
- Attended a public meeting or hearing sponsored by a community group
- Attended an informal meeting
- Shared information over the telephone
- Shared information on a website
- Participated in a protest or demonstration
- Participated in a citizen advisory board
- Completed survey
- Participated in focus group discussions
- Became a member of a working group or coalition
- Other (please specify)

If yes for any of the above, when and where and for what project or issue did you participate? Why? How satisfied were you with the process? (very to not at all)

---



---

If you participated in government forums (EIAs), how was the experience? Indicate your agreement with the following statements on a scale from 1 (strongly agree) to 5 (strongly disagree).

**1 2 3 4 5**

- Agency staff listened to and considered my concerns about the project.
- The decision about the project was made before the public got involved.
- The agency's primary concern was meeting the applicant's needs.
- The agency or applicant provided clear, complete information about the project and its effects.
- Public meetings were scheduled at convenient times.
- Public comments significantly influenced the final decision.
- Participating in this process was a waste of my time.
- Public comments significantly influenced the analysis.
- Public meetings were held at places that were convenient for me.
- The agency didn't listen to public concerns.
- The agency or applicant fully answered my questions about the project.
- I was able to get information about the project in a timely way.
- The final decision on this project was reasonable based on the facts.
- The review process was fair. The applicant had a legitimate need for the project.

If you haven't ever participated, why not?

- Didn't know about it.
- Didn't realize I could do it.
- Didn't know enough about the project to participate.
- Inconvenient time.
- Inconvenient location.
- Not given enough notice to participate.
- Wasn't interested or didn't think it would be worth it.

**In your opinion, the public should be involved because . . . (don't know, agree, or disagree)**

**DON'T KNOW AGREE DISAGREE**

- It is their democratic right.
- Public participation ensures that needs of the public are met.
- Public participation will give the project more legitimacy.
- Public participation will reduce conflict among stakeholders.
- Better decisions arise when the process is informed by local knowledge and values.
- Public participation enhances communication between public and planners.
- Public participation leads to a more effective and efficient process.
- Public participation reduces time and costs.

**In your opinion, when should the public get involved? (don't know, agree, or disagree)**

**DON'T KNOW AGREE DISAGREE**

- In the early stages (conception, planning, design, feasibility studies)
- During implementation
- During ongoing operation, even after company operations have started (monitoring)
- Throughout the cycle (financing, oversight, etc.)
- Other (please specify)
- Public participation reduces time and costs.

**For issues you care about, what level of decision-making do you think the public should be involved in?**

- Informing
- Consultation
- Participation
- Formal representation
- Partnership
- Co-decision-making

Please give your opinion on barriers to participation. (Rank each 1 to 5, with 5 being the greatest obstacle)

**1 2 3 4 5**

- Lack of awareness
- Lack of interest
- Lack of resources or funding
- Lack of time
- Lack of information
- Unwilling to engage
- Inability to influence outcome
- Lack of technical expertise
- Lack of trust
- Too late in process to make a difference
- What are the key resources needed to help you participate? (Please list.)
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

### ACCOUNTABILITY

Are you aware of any government agency that

- monitors how services are provided?
- ensures that the quality of water is maintained?

*(if you answered yes to either of the above, please name the agency)*

\_\_\_\_\_

\_\_\_\_\_

Do you know which agency has primary jurisdiction over water quality?

\_\_\_\_\_

\_\_\_\_\_

Do you know which agency has primary jurisdiction over water quantity?

\_\_\_\_\_

\_\_\_\_\_

Are you aware of any system that people can use to complain about water quality or quantity? (yes, no, don't know)

- Yes
- No
- Don't know

If you are aware of one, can you give the name of the agency responsible for addressing the complaint?

\_\_\_\_\_

\_\_\_\_\_

If you are aware of a system, can you identify the different ways it advertised in your community? (yes, no, don't know for each example)

**YES NO DON'T KNOW**

- Helpline
- Face-to-face meetings
- Printed materials
- Displays (billboards, signs)
- Company representative connections/visits/outreach
- Third-party messages (e.g., through a civil society organization)
- Online
- Training sessions

**YES NO**

- Do you know of any other administrative or regulatory bodies to which you can address complaints?
- Have you ever made a complaint about your water quality or quantity to a government agency?

*If yes, which one?* \_\_\_\_\_



**YES      NO**

---

Is there a cost to making a complaint?  
 What was the complaint about?  
 \_\_\_\_\_  
 \_\_\_\_\_

Was your complaint addressed in a timely manner? Was it easy to make a complaint? If no, what difficulties did you face? Was it expensive?  
 Did you feel that it was resolved well?  
 If yes, how? \_\_\_\_\_  
 If no, why? \_\_\_\_\_

**Did the complaint ... (yes, no, don't know)**

**YES      NO      DON'T KNOW**

---

lead to measurable changes in how the company conducts the activities that caused, or contributed to, the grievances?  
 contribute to larger goals of both companies and communities?  
 trigger further engagement?  
 How did you find out about the complaint mechanism?  
 \_\_\_\_\_  
 \_\_\_\_\_

**YES      NO**

---

If you made a complaint, do you feel you were treated fairly in addressing the complaint? Was the process clear and understandable?

**YES      NO**

---

Would you be willing to be involved in a project to rate the performance of government agencies in relation to water quality and availability?

**YES      NO**

---

Is there a cost to making a complaint?  
 What was the complaint about?  
 \_\_\_\_\_  
 \_\_\_\_\_

Was your complaint addressed in a timely manner? Was it easy to make a complaint? If no, what difficulties did you face? Was it expensive?  
 Did you feel that it was resolved well?  
 If yes, how? \_\_\_\_\_  
 If no, why? \_\_\_\_\_

**HEALTH**

**YES      NO**

---

Are any health problems common in your community?  
 If yes, please list them \_\_\_\_\_

Do you believe any of these health problems are associated with pollution?  
 Do you believe that you personally have experienced health problems associated with pollution?  
 If yes, what are they? \_\_\_\_\_

Do you believe that someone in your family has experienced health problems associated with pollution?  
 If yes, who from your family? \_\_\_\_\_  
 If yes, what problems? \_\_\_\_\_

Please describe each health problem you think might be associated with the pollution by ...  
 water \_\_\_\_\_  
 air \_\_\_\_\_  
 land or soil contamination \_\_\_\_\_  
 How do these problems impact your daily life? \_\_\_\_\_

**YES      NO**

---

Have you spoken with a medical professional about these concerns?  
 Have you been provided with any information regarding the connections between health and environmental pollution?  
 If yes, what information was provided? \_\_\_\_\_  
 Who provided you with this information?

### STAKEHOLDERS' PERSPECTIVES ON INSTITUTIONS

Question 1 | Please rate the importance of the following institutions for the well being of your community in terms of the environment

INSTITUTION	NOT IMPORTANT	FAIRLY IMPORTANT	VERY IMPORTANT	MOST IMPORTANT	DON'T KNOW
Municipal government					
Political party					
Health ministry					
Environment ministry					
Unions					
Civil society organizations					
Courts					
Water service providers					
Waste collection service providers					
Private sector / industry					

Question 2 | Please rate the engagement of the following institutions in your community in terms of the environment

INSTITUTION	NOT IMPORTANT	FAIRLY IMPORTANT	VERY IMPORTANT	MOST IMPORTANT	DON'T KNOW
Municipal government					
Political party					
Health ministry					
Environment ministry					
Unions					
Civil society organizations					
Courts					
Water service providers					
Waste collection service providers					
Private sector / industry					

Question 3 | Please rate your level of trust in the following institutions to carry out their responsibility in terms of environmental problems

INSTITUTION	VERY LOW	LOW	NEUTRAL	HIGH	VERY HIGH	DON'T KNOW
Municipal government						
Political party						
Health ministry						
Environment ministry						
Unions						
Civil society organizations						
Courts						
Water service providers						
Waste collection service providers						
Private sector / industry						

Question 4 | Whom would you turn to for help with environmental pollution problems? Please indicate your level of confidence in reaching out to the following institutions

INSTITUTION	VERY LOW	LOW	NEUTRAL	HIGH	VERY HIGH	DON'T KNOW
Municipal government						
Political party						
Health ministry						
Environment ministry						
Unions						
Civil society organizations						
Courts						
Water service providers						
Waste collection service providers						
Private sector / industry						



Question 5 | Please rate the degree to which the following institutions play a formal role in resolving problems

INSTITUTION	VERY LOW	LOW	NEUTRAL	HIGH	VERY HIGH	DON'T KNOW
Municipal government						
Political party						
Health ministry						
Environment ministry						
Unions						
Civil society organizations						
Courts						
Water service providers						
Waste collection service providers						
Private sector / industry						







MODULE

**3**

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# Conducting a Legal Assessment of Environmental Rights to Address Pollution



# Highlights

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**WHAT:** This module explains how to conduct a legal assessment of environmental rights and how these rights can be used strategically to understand how pollution is regulated.

**WHY:** Conducting a legal assessment of the regulatory environment enables an understanding of

- how existing legal rights to information, participation, and justice can enable citizens to engage in environmental decision-making;
- how you can use a substantive right to a healthy environment to support advocacy;
- what type and amount of pollution may legally be released into the environment, under what conditions; and
- the actions the public can take to seek compliance with environmental and public health standards.

**WHEN:** A legal assessment should be done at the beginning of advocacy planning.

**WHO:** A legal assessment should be conducted by lawyers or skilled legal researchers.

**HOW:**

- Identify relevant laws and regulations the government uses to control the impact of polluting industries, including provisions related to sector-specific industries and air, water, and land.
- Assemble laws and other legal documents such as your country's constitution related to environmental rights, including both substantive rights (the right to clean water and air) and procedural rights (access to information, participation, and justice).
- Using the guiding legal questions, analyze these rights and review any gaps.
- Write up the results of this assessment and share them with local stakeholders.
- Using the analysis framework, review these rights across the stages of pollution control.
- Consider the best legal strategy to use environmental rights as part of your advocacy planning.

## INTRODUCTION

In order to address pollution concerns, you need to understand the way pollution is regulated, how your right to a healthy environment may be used, and your legal right to access pollution information, participate in pollution decision-making, and hold your government accountable for enforcing pollution laws. Undertaking a legal assessment will allow you to understand the environmental laws regulating companies' behavior and the actions you can take to address pollution concerns or a facility's impact on public health and the environment. To remedy the situation, it is important to assess both the scope of existing environmental rights and their impact in practice. This includes reviewing opportunities for community members to provide input, act through the courts, and other administrative procedures. Reviewing sector-based laws such as mining laws will support the enforcement of environmental standards and rights as well.

Reviewing relevant laws and regulations provides the foundation for understanding

- information on what type and amounts of pollution may be released into the environment and the adequacy of laws, regulations, and standards compared to human rights obligations;

- the actions private or public companies are mandated to take by government to protect the environment and public health;
- the terms and conditions of permits or licenses that can be used to demand enforcement action;
- opportunities to participate in the review and monitoring of a company's compliance; and
- communities' rights to participate in court or administrative actions that can determine civil or criminal penalties when violators are brought to justice.

This module explains how to conduct a legal assessment and outlines a process for collecting and understanding the laws and regulations that give communities rights to hold different actors accountable for hotspots of pollution. The legal assessment should be conducted by a person or team of people with legal training who can provide a foundation for the research and assessment.

## IDENTIFICATION OF LAWS

Environmental rights are imbedded in a range of legal documents, including the following:

- Constitutions, right to information laws, or other legal provisions that outline how people can access information from government bodies.
- Treaties that recognize environmental rights, including the Aarhus Convention and the Escazú Agreement in Latin America and the Caribbean.
- Procedures or constitutional provisions that outline freedom of assembly, or other legal provisions on public participation, including administrative law requirements that set out rules for public meetings, notice, or comment.
- Legal provisions in the constitution or laws that outline grievance mechanisms, compensatory damage, or compensation awards, the right of citizens to bring lawsuits or have standing in court, or rules governing the scope and conduct of specialized courts and tribunals.
- Court decisions setting precedents on access to information, public participation, standing, justiciability, and other aspects of these rights, and court decisions on substantive environmental rights (clean air, clean water and adequate sanitation, healthy and sustainably produced food, nontoxic environments, healthy ecosystems, and biodiversity or a safe climate).

## ASSEMBLE LAWS AND RELEVANT DOCUMENTS

To conduct a legal assessment, researchers should first assemble and review relevant laws. These include the following types of documents:

- **Laws that cover substantive rights (people's right to clean water, a healthy environment, and life)**
- **Laws that cover procedural rights (people's right to information, participation, and justice)**
- **Sector-based laws (e.g., laws that govern air, water, and land, mining, or the development approval process)**
- **All laws and regulations that regulate pollution control for relevant industries (e.g., pulp and paper mills or coal power plants, including any air, water, and solid waste quality standards)**
- **Regulatory documents that permit environmental polluting activities (e.g., permits, contracts, monitoring reports, environmental impact assessments [EIAs])**

Table 5 summarizes the types of laws that should be reviewed and how they correspond to environmental rights.

Table 5 | Type of Laws to Review

TYPE OF LAW	RIGHT TO A HEALTHY ENVIRONMENT	RIGHTS TO INFORMATION	RIGHT TO PUBLIC PARTICIPATION	RIGHT TO ACCESS JUSTICE
<b>Constitution</b>	Most constitutions outline substantive rights to a healthy environment and include provisions that require a robust environmental legal framework with substantive standards on air, water, and land.	Constitutions can include specific or general rights to information for all citizens and residents.	Constitutions can include a specific or general right to participate in governmental decision-making.	Most constitutions include provisions for citizens to have standing to review government decisions and for specialized environmental courts or other tribunals.
<b>Right to information (RTI) law or specific law related to environmental information</b>	In a number of countries the recognition of a right to a healthy environment implicitly includes a right to information.	Many countries have specific RTI laws that govern the right to access information.	N/A	An RTI law can include provisions to appeal the refusal to grant information or the nonresponse to an access to information request.
<b>Laws that establish rights for public participation</b>	In a number of countries, the recognition of a right to a healthy environment implicitly includes a right to participate in decision-making and a right to obtain remedies.	In some countries there are laws that facilitate access to specific types of information through public participation laws, such as access to information on the scoping of a project or on its environmental impacts.	Some governments include in their national laws a recognition of citizens' right to participate in governmental decisions and in the setting of legislative standards, policies, and projects.	N/A
<b>Overarching environmental management law</b>	N/A	An environmental management law can include specific rules on access to environmental information.	An environmental management law may include a provision on participation in a project, planning, or policymaking process.	An environmental management law may include provisions to appeal the lack of enforcement of specific standards or the lack of provisions for public participation to a member of the executive branch or a separate tribunal or court. Provisions may also be included related to compensatory damage, citizens' right to bring lawsuits or have standing in court, or rules governing the scope and conduct of specialized courts and tribunals.
<b>Environmental impact assessment [EIA] law</b>	N/A	An EIA law may include provisions on how the public can access EIA documents.	An EIA law may include specific provisions to review the assessment or permits required with specific opportunities for comment and response.	EIA legislation may include provisions for appeal of the decision to grant or deny a permit or EIA to the executive branch or an administrative body.
<b>Sector law (e.g., mining, air, water quality, land development, land use forestry, protection of species)</b>	N/A	A sector law may include provisions on how the public can access environmental information related to the sector, including restriction of access to specific documents and the standards for pollution control.	A sector law may include provisions on how the public can participate in decisions on permits and their review, including compliance and enforcement provisions.	A sector law can include provisions on how the public can complain to an agency about failure to comply with environmental standards and rules on restoration, compensation, compliance, and enforcement.
<b>Administrative procedure laws</b>	N/A	Administrative procedure laws may include requirements for provision of information to the public on how a decision was reached.	Administrative laws that include requirements for public meetings, public notice or comment procedures, or constitutional provisions that outline freedom of assembly.	Administrative procedure laws may include provisions for both applicants and the public to challenge the way a decision was reached.

As part of the STRIPE project in Indonesia, laws were assembled on both air and water quality. Tables were created highlighting provisions that could be used to access information. See Table 6 on air quality.

Table 6 | Indonesian Air Quality Laws



<b>GOVERNMENT REGULATION NO. 41 OF 1999 ON AIR POLLUTION CONTROL</b>	
<b>Guarantee</b>	<b>Article</b>
Obligation of public bodies to provide and announce public information (proactive disclosure)	Article 26 stated that if the monitoring result shows that the standard index of air pollution reached 300 or more, this means that the air is in a dangerous state. Therefore, the minister and/or governor shall establish and/or announce a state of emergency. Such announcement shall be made through printed and/or electronic media. Article 49 stated that government shall keep and announce to the society the result of the inventory and monitoring of the ambient air quality standard, emission standard, standard level of disturbance, and air pollution standard index (ISPU) conducted by the supervisory authority.
Obligation of business actor to provide and announce information	Article 21 letter c stated that everyone conducting business and/or activity resulting in emissions and/or standard level of disturbance to ambient air shall give accurate and valid information to society. Article 35 paragraph (2) stated that the management of the business and/or activity shall announce the number of the pollutant parameter of emission test results on newest type of motor bikes. Article 42 paragraph (2) stated that the management of the business and/or activity shall announce the number of the pollutant parameter result of a noise-type test of the newest type of motor bikes.
<b>Ministry of Environment Decree No. 45 of 1997 regarding ISPU</b>	
Obligation of public bodies to provide and announce public information (proactive disclosure)	Article 5 paragraph 1 stated that the head of the Pollution Control Board shall deliver an ISPU to the society, nationally and daily. Article 5 paragraph 6 stated that the regent or mayor shall deliver ISPU information to the society in his area daily.
<b>Minister of Environment Decree No. 13 of 1995 regarding Emission Standard from Stationary Sources</b>	
Doesn't have a provision on access to information	
<b>Head of Bapedal Decree No. 107 of 1997 regarding Technical Guidelines on Measurement and Reporting and Information on ISPU (Air Pollution Standard Index)</b>	
Obligation of public bodies to provide and announce public information (proactive disclosure)	Article 8 paragraph 1 states the requirements of content in delivering an ISPU to society, among others, a. time of report; b. location reported; c. ISPU of each measured parameter; and d. maximum ISPU. Furthermore, paragraph 2 states that the ISPU may be delivered to society as provided in Article 8 through mass media and electronics and a demonstration board in several public places.
<b>Minister of Environment Decree No. 49 of 1996 regarding Raw Vibration Level</b>	
No express provision on providing information to society	
<b>Minister of Environment Decree No. 50 of 1996 regarding Quality Standard on Level of Odor</b>	
No express provision on providing information to society	



## HOW TO CONDUCT AN ANALYSIS OF LAWS

Completion of a legal assessment will support a stronger understanding of the strengths and weaknesses of the rules that govern pollution control and help civil society and local communities develop recommendations to the government on reforms or urgent actions. Guiding legal questions, provided below for each element of environmental rights, will assist you in this evaluation. They should allow you to assess strengths and gaps in the laws that establish these rights in your country and the relevant pollution control systems used to address your pollution concern.

### GUIDING QUESTIONS: SUBSTANTIVE RIGHT TO A HEALTHY ENVIRONMENT

Where a country’s law includes a substantive right to a healthy environment, this provides an opportunity for civil society and communities to challenge or address

- the adequacy of environmental laws related to pollution and whether the air, water, and land quality standards are stringent enough or whether they have gaps;
- the government’s enforcement actions to ensure that pollution does harm people’s health; and
- whether a private or public company has met the appropriate standards.

Most countries have national human rights institutions that can play a huge role in protecting and promoting both procedural and substantive environmental rights. They are independent, experienced, and have at least some resources that should help with your legal assessment (Ituarte-Lima et al. 2020).

Using the questions in Table 7,

- identify any law that includes provisions recognizing the right to a healthy environment and other substantive rights; and
- review laws and regulations that govern the right to a healthy environment, assessing their strengths and how they could be used to assist communities in their fight against pollution.

Table 7 | Guiding Legal Questions: Right to a Healthy Environment

CATEGORY	LEGAL QUESTIONS	STRATEGIES
Existence of a substantive constitutional right to a healthy environment	Does your country recognize a right to a healthy environment? Has interpretation of this right been restrictive or expansive?	Determine whether the constitutional right to a healthy environment has been interpreted in national law and whether it requires proof of a high level of damage to the environment or a person’s health.
Person who can bring a claim	Does the constitution allow a member of the public to bring a claim for breach of the right or must a specific institution or office take action to protect the right?	Assess whether an individual can bring a claim to court or whether an institution or independent human rights office can take a case on behalf of a community to allow action to support the right to a healthy environment.
Use of the right to demand action on a statutory provision	Does the constitution allow action to be taken to establish that the government has failed to meet a statutory obligation?	Assess whether the right can be used to demand enforcement action by a government authority where it has failed to act.
Use of an enforceable right to challenge environmental standards	Does the constitutional provision create an enforceable right?	Determine whether the right allows a community to challenge the adequacy of environmental standards to protect the environment or public health or whether there are gaps in these standards.

**GUIDING QUESTIONS: RIGHT TO INFORMATION**

Analyzing the general right to information that exists in law will determine how easy it is to get concrete information about a polluting facility or the quality of the environment. The analysis also can be used to highlight existing barriers to accessing specific documents used in the regulatory process.

Using the questions in Table 8,

- identify any law that includes provisions on information, including right to information laws as well as pollution control or prevention laws; and
- review relevant laws and regulations, assessing their strengths and how to use them to help communities access environmental information.



Table 8 | Guiding Legal Questions: Right to Information

CATEGORY	LEGAL QUESTIONS	STRATEGIES
<b>Existence of a constitutional right to information or a specific law on access to information and timeliness of response</b>	<p>Does your country's constitution recognize a right to information for citizens (or residents), or has it adopted a right to information (RTI) law that outlines the rights, procedures, and access framework?</p> <p>Are public authorities required to respond to information requests in a timely manner?</p> <p>Does a constitutional right to a healthy environment require governments to disclose environmental information?</p>	<p>Assess whether citizens have a right to receive or demand information and determine if this right is judicable (i.e., if an independent body can enforce it). You should also determine if agencies are required to respond to information requests in a timely fashion and how easy it is for officials to ignore requests (mute refusals).</p>
<b>Limitations of the RTI law</b>	<p>Does your country's RTI law provide exemptions to the right to information, including commercially confidential information or trade or business secrets?</p> <p>Does your country's law specifically exempt information about pollution from these business or trade secret requirements?</p> <p>Does your country's law include a public interest test to determine if these exemptions are reasonably applied?</p> <p>Using government reports, can you determine if the law is being implemented effectively, with timely responses to information requests?</p>	<p>Evaluate any limitations on the right to pollution information, such as information categorized as a trade secret. In many countries pollution information is explicitly recognized as an exception to business confidentiality and trade secrets, as it is a public discharge that can directly affect people. A public interest test, if applied to a commercial confidentiality requirement, can also be a positive attribute of a freedom of information law and can allow for an appeal on public interest grounds if information about pollution is refused.</p>
<b>Proactive disclosure</b>	<p>Does your country's RTI law list specific kinds of environmental information that must be provided proactively to the public?</p> <p>Does this law include information relevant to pollution? Or information on the quality or state of the environment?</p>	<p>Verify if the law requires people to file a request for desired information or outlines an obligation for the government to provide public information to citizens, including specific pollution information or general information about the quality of the environment.</p>

Table 8 | Guiding Legal Questions: Right to Information (Cont'd)

CATEGORY	LEGAL QUESTIONS	STRATEGIES
<b>Coverage of the law</b>	Does this law cover specific government ministries that regulate the environment?	Some facilities that pollute are government-owned, while others are privately owned. The law in some countries exempts government-owned companies from the RTI act. In some cases, other ministries and agencies are exempt from some requirements or have additional requirements.
	Does the law govern state companies or public/private partnerships and companies?	
<b>Independence of the law</b>	Is there an independent appeals mechanism or information commissioner that can hear appeals when access to information requests are denied?	An independent appeal mechanism ensures a legal process in cases when communities request information but don't receive it or are issued a denial. If there are provisions for review of proactive release, this could strengthen the communities' case that the polluter or government has not been transparent about discharges or emissions.
	Can the appeals mechanism or information commissioner review the performance of proactive release of information by public authorities?	
<b>Requirements of sectoral laws</b>	How has the appeals mechanism or information commissioner effectively improved implementation of the law?	In addition to RTI laws, sectoral laws may require the release of specific information through registers or online portals.
	Is there any law that requires the provision of access to information on standards, permits, monitoring, and enforcement?	

Summarize your findings from the qualitative legal questions to understand the strengths and weaknesses of the law on access to environmental information. This preliminary assessment will enable you to develop recommendations to the government on how to improve communities' access to critical information on their health and environment and to strategically request information. Box 6 summarizes such an assessment in Thailand.

**GUIDING QUESTIONS: RIGHT TO PARTICIPATE**

The general rights to participation that exist in law outline how citizens can effectively provide their input in decision-making about a polluting facility. An analysis of these rights will highlight potential government barriers to public participation.

Use the guiding questions in Table 9 to evaluate the different laws governing community environmental rights to participate in pollution control decision-making.

- Identify any law that includes provisions on participation.
- Review laws and regulations that govern a right participate in decision-making and assess the strengths of the law and how to use it to reinforce communities' ability to participate in pollution regulatory control policymaking.





BOX 6

## Insights from Thailand: Legal Assessment of the Official Information Act

For Thailand's legal assessment, researchers performed a detailed review of the country's Official Information Act. They analyzed the scope of the law and how its implementation affected requesters. They offered the following recommendations for reform:

**RECOMMENDATION 1:** The scope under which the Official Information Board and responsible state officials in state agencies are able to exercise their judgment regarding the disclosure of information should be made clear, and another provision should be added stipulating that if disclosure of information will be beneficial to the public, such as information on environmental conservation, public health and safety, officials must disclose this information even if the private party that is the subject of the information objects or refuses to consent.

**RECOMMENDATION 2:** Consideration should be given to revising the Official Information Act B.E. 2540 (1997) and related laws, that is, the Organic Law on Countercorruption B.E. 2542 (1999) and the Organic Law on the State Audit B.E. 2542 (1999), to extend protection to state officials who disclose information on corruption.

**RECOMMENDATION 3:** A ministerial regulation should be issued specifying the rights of an alien under Section 9, final paragraph, of the Official Information Act B.E. 2540 (1997) on access to official information on the environment under the law if such information is relevant to the mitigation of adverse effects on human life or health.

**RECOMMENDATION 4:** Provisions should be added on the quality of information and channels of dissemination to ensure the public better and greater access. Information should be provided in a form that is easy to understand and in a language that the target groups can easily access. In addition, there should be a greater variety of channels for information dissemination, making use of media that can reach the public at every level, especially local media, such as community radio and wireless public address systems. A proactive plan should be developed for information dissemination and publicity.

**RECOMMENDATION 5:** Provisions regarding the organizational structure, selection process, and appointment of members of the Information Disclosure Tribunals should be improved. Appointments should be made through Parliament rather than by the executive branch (Council of Ministers) to ensure the tribunals' independence, and provisions should be added to better guarantee the tribunals' neutrality and independence.

**RECOMMENDATION 6:** Provisions should be added presenting a clear time frame for the implementation of a request for information in accordance with the resolution of the Council of Ministers dated December 28, 2004, and a statement should be added to the effect that if no response to the request is made within a specified period of time (15 days), it will be deemed that such request is rejected and members of the public can submit an appeal to the Official Information Board.

**RECOMMENDATION 7:** Provisions should be added enhancing the ability of state officials and the public to gain good knowledge and understanding of their rights and duties under the Official Information Act B.E. 2540 (1997). State agencies should set a regular budget for training state officials to have good knowledge, understanding, and awareness of the intent of this act. State agencies should allocate an adequate budget on a regular basis to organize activities to promote the public's ability to gain good knowledge and understanding about this act through media materials and mass media, including organizing seminars in the central and provincial areas for media organizations and the general public.

**RECOMMENDATION 8:** Civil penalties should be added. An agency that violates or fails to comply with the decision of an Information Disclosure Tribunal must be responsible for all the damages to the person who files an appeal, including various costs of the Office of the Official Information Board that are incurred in the consideration of the appeal. The compensation shall be made in monetary form.





Table 9 | Guiding Legal Questions: Right to Participate in Decisions

CATEGORY	LEGAL QUESTIONS	STRATEGIES
Standard setting and participation	<p>Does your country have comprehensive pollutant standards that govern all the types of pollutants being released into the air, water, and land by the industry in question?</p> <p>Can the public participate in the setting of standards?</p>	<p>Outline whether the public has rights to participate in the standard setting process used to regulate the release of pollutants into the environment. This includes the environmental quality standard that must be met to allow uses like recreation, drinking, or agriculture.</p> <p>This right allows the public to provide input into decisions if the government fails to include standards for certain pollutants or has set standards low to allow an increasing amount of pollution into the environment.</p>
Requirement that an environmental impact assessment (EIA) be conducted and made public	<p>Does your country have laws that include comprehensive provisions on EIAs, including assessment of any industry that is likely to discharge pollution?</p> <p>Does this law require that the EIA be released to the public for comment?</p>	<p>Granting the public the right to participate in the EIA process, including preparation of an EIA and decisions about its release to the public, is a critical entry point for advocacy.</p>
Taking comments into account	<p>Are there provisions in the law that require public hearings and the collection of public views on new development that may cause pollution?</p> <p>Is the government required to take public comments into account?</p> <p>Does the government release information about whether it has taken these comments into account?</p>	<p>Determine whether the government is required to hold a public hearing where the public can present comments. In many jurisdictions, failure to take the public's views into account is grounds for a review of the decision by an independent court or tribunal. Reviewing comments made on an EIA can help show if the communities case has been heard or ignored. The process can also help you assess whether those most affected by a development were consulted when the decision was made.</p>
Rights in relation to permitting, monitoring, and enforcement	<p>Does your country have laws or regulations governing permitting, monitoring, and enforcement of pollution standards for air, water, or land?</p> <p>Do permitting or monitoring requirements include provisions allowing the public to participate?</p> <p>Can the public participate in the renewal of permits?</p> <p>Can the public participate in monitoring of permits?</p>	<p>Determine whether the public can review a permit's conditions (including monitoring and enforcement) across the permit's lifetime. In some jurisdictions, the public's right to participate in these stages is written into the law.</p>

Summarize your findings to understand the strengths and weaknesses of public participation laws. This analysis will enable you to recommend improvements to the participation processes used in your country. For example, the analysis can highlight ways for citizens to participate in deciding whether a polluting facility’s operating permit should be renewed, including EIA procedures. This analysis also has implications for citizens who want to review and monitor permits or comment on the procedures for permit renewal.

**GUIDING QUESTIONS: RIGHT TO ACCESS JUSTICE**

The general rights that exist in law can be used by citizens to obtain justice for damages caused by a polluting facility. These rights can highlight legal barriers when citizens seek enforcement and compliance.

Use the guiding questions in Table 10 to evaluate the different laws providing environmental justice regarding pollution control.

- Identify any law that includes provisions on justice, including provisions contained in right to information laws, participation, or access to remedies or redress in environmental courts or tribunals or general courts.
- Review laws and regulations that govern a right to justice, assessing their strength and how to use them to help communities obtain environmental justice.

Table 10 | Guiding Legal Questions: The Right to Justice

CATEGORY	LEGAL QUESTIONS	STRATEGIES
<b>Registered complaints by the public</b>	Do enforcement and compliance requirements in the law allow the public to file complaints or grievances?	Use official, legally mandated government processes to file community complaints about pollution. This creates an evidence trail that establishes the problem and attempts to address it.
	Can the public engage in the enforcement of environmental laws?	
	Is there a hotline where the public can report violations?	
<b>Requirements for audits</b>	Are there any laws or regulations under which the government must require facilities to independently audit or monitor their releases of pollution into the environment?	Determine whether the law requires private corporate facilities to monitor their own emissions and report on them to the government. Then find out if you can access these reports. This also will help you understand compliance and governmental enforcement actions.
	Is there a law that allows a member of the public to appeal or review the decision to grant or renew a permit?	
<b>Rights to review/appeal</b>	Is there a law that allows a member of the public to appeal a failure to meet the standards or conditions of a permit?	Learn whether the public has a right to appeal the decision to grant a permit. Also determine whether you can appeal a permit renewal if the facility is not meeting the permit’s conditions.
	Is there an environmental court or tribunal that may review decisions about pollution?	
	Does the law include provisions that grant power to a judge or administrative tribunal to order improved performance and demand cleanup or restitution?	
<b>Power for cleanup and restitution</b>	Identify what types of orders a judge or tribunal can issue requiring a facility to clean up its pollution or provide restitution.	
<b>Monitoring</b>	Is there a law that allows for public review when a government agency fails to properly monitor a facility?	Investigate the public’s right to complain if a government agency fails to appropriately monitor the emissions from a facility.

Table 10 | Guiding Legal Questions: The Right to Justice (Cont'd)

CATEGORY	LEGAL QUESTIONS	STRATEGIES
<b>Citizen suits, public civil actions, collective actions, and standing</b>	Is there a law that allows for direct action on behalf of citizens to demand compliance by a facility with its permit or national standards for improvement of environmental quality?	Some jurisdictions include explicit standing requirements to allow a complaint to court. These are powerful provisions for direct justice that will outline your right to bring a citizen suit or take joint public civil or other collective actions directly against a facility.
	What requirements exist, if any, for members of the public to have standing? Are criteria different for individuals and nongovernmental organizations?	
<b>Independent institutions</b>	Are there any independent institutions, such as human rights institutions, through which a community may file a complaint about a failure to provide information?	Independent institutions allow the public to file complaints regarding the failure to provide information or allow participation, or complaints about the way the government agency made its decisions. This avenue can open new avenues to seek justice rather than complaining about the failure to ensure that a facility meets a national standard.
	Are there any independent institutions, such as human rights institutions, that can receive public complaints about a failure to allow appropriate participation?	
	Are there any independent institutions through which the public can complain about noncompliance with the law? (E.g., human rights institutions, ombudspersons, and parliaments.)	
<b>Remedies and timeliness</b>	Are there laws or rules ensuring effective judicial protection and the right to effective remedies? What type of remedies are available in case of success?	In reviewing provisions that allow the public or civil society to take legal or other action, assess them for their strengths and for the barriers they present, including the monetary costs of taking action.
	What type of interim orders could be possible through your country's legal system to prevent pollution and stop the polluting activity before it causes environmental harm?	
	Are there any costs that would have to be covered as part of any claims or complaints, including fees?	
	Are there other risks of adverse costs? Is there any legal aid scheme or mechanism to reduce cost barriers?	
<b>Rule of law</b>	Are independent courts or other judicial or administrative bodies open to hear cases related to environmental pollution? Are they likely to defer to public authorities or are they usually willing to review government performance?	Identify what types of institutions, including courts, exist to hear community claims. Also consider national or international avenues for legal review or appeal.
	When fundamental rights or access to justice rights are breached and national legal systems are unable or unwilling to hear environmental claims, can the matter be brought to international or regional venues?	
<b>Civil or criminal penalties</b>	Do civil or criminal fines apply for failure to meet national emission standards? What about civil or criminal fines for breach of permit conditions?	Communities must consider the best avenue to seek justice, such as using civil or criminal law. What type of court action is likely to produce an acceptable result? Review all options and approaches, including the remedies for and risks of each option.
	Do any administrative or other penalties apply if a facility breaches permit conditions?	
	Do other mechanisms provide for restoration, injunctions, or cleanup action?	

Summarize your findings regarding the strengths and weaknesses of the access to justice provisions in your law. Knowledge of these rights can inform the choice of enforcement action for breach of standards as well as remediation, cleanup, or restitution. Determining the institutions that have a mandate to receive public complaints or grievances will enable you to recommend appropriate advocacy action in these forums to ensure prevention of harm or compensation for damages.

**GUIDING QUESTIONS: SECTOR-BASED ENVIRONMENTAL QUALITY**

Sector laws and regulations provide the foundation for understanding

- what types and amounts of pollution can be released into the environment and what environmental standard must be met,
- the actions private companies must take to protect the environment and public health, and
- what regulatory information is needed to support local community members’ advocacy.

Using the questions in Table 11, review the national environmental laws and regulations related to pollution and environmental quality to understand their specific requirements. This could include laws on pollution prevention.

Table 11 | Guiding Legal Questions: Sector Laws

CATEGORY	LEGAL QUESTIONS	STRATEGIES
<b>Water, air, or land ambient quality setting standards and use classifications</b>	<p>Are there any laws that regulate the uses of specific water bodies, airsheds, or areas of land, such as for bathing or drinking?</p> <p>What are the standards for ambient air, water, and land for different uses?</p> <p>Are the standards for each standard binding or nonbinding?</p> <p>How does the current ambient air and water quality near the community compare to national standards?</p> <p>Is there compliance with environmental quality standards?</p>	<p>Consider how water, air, and land are regulated in your country. This includes how ambient quality standards are set (binding or nonbinding) and whether the area of community concern meets national standards for current uses, such as for drinking, fishing, or bathing.</p>
<b>Type of monitoring and other controls for compliance</b>	<p>What powers enable government institutions to demand that private industry monitor or clean up its pollution?</p> <p>Are there any legally binding requirements to monitor environmental quality standards (particularly with reference to diffuse sources of pollution)?</p>	<p>Identify the powers and remedies available for monitoring and cleanup of point and diffuse sources. Diffuse sources include pollution that has traveled from distance sources to the local community or pollution levels that result from a mixture of multiple sources of pollution. Air pollution is often a result of diffuse sources.</p>
<b>Control of pollution discharges—point sources</b>	<p>Are there any laws that govern discharges of effluent or emissions into the environment?</p> <p>What are the standards for point sources?</p> <p>How does the current point-source discharge compare to national standards?</p> <p>What standards apply to the facility in question?</p> <p>Does the facility meet the current standards?</p>	<p>It is important to understand what rules govern the discharges of pollutants from point sources and the standards that apply to any company you are reviewing.</p>
<b>Relevant institutions</b>	<p>Which government agency has (or which agencies have) a legal mandate to carry out monitoring, cleanup, enforcement, and compliance actions?</p>	<p>You should be able to determine which agency handles monitoring, enforcement, and compliance relevant to the community’s problem.</p>





BOX 7

**Insights from the Jamaica STRIPE Legal Assessment**

The Jamaica legal assessment included a review of the Mining Act, the Quarries Control Act, and the Water Resources Act. The assessment found a need to reform legislation to include a mandatory requirement to release information on pollution from the mining and quarrying sector. The information that needed to be proactively released under these laws included

- the level and types of pollutants discharged in air and water bodies used for domestic needs (ambient air and water quality);
- current air and water quality data for areas located in proximity to mining and quarrying operations;
- regulatory and monitoring information such as enforcement action taken by regulators and actions related to compliance; and
- royalties, if any, paid for access to and use of public resources.

In addition, the assessment found that the fees for conducting searches of the mining public register and air pollutant discharge registry are prohibitive. STRIPE partners recommended that they be either lowered or eliminated to make information more accessible.

The findings from your analysis of sectoral laws highlight strategic information for your advocacy. Box 7 discusses an example from the Jamaica assessment.

**LINKING YOUR LEGAL ANALYSIS TO IMPLEMENTATION**

Identifying how your environmental rights have been charted in your country’s constitution, laws, and regulations does not reveal how well these provisions have been implemented in practice. Often pollution problems result not from a lack of rules but rather from poor implementation and compliance (Bruch and UNEP 2019). To collect evidence of implementation challenges, you will need to investigate how easily community members can actually access information and participate in policymaking, then compare this experience to the legal requirements.

Connecting law to practice and highlighting implementation barriers is outlined in other parts of the toolkit. Specific guidance on how to conduct a proactive disclosure assessment and submit information requests under a country’s right to information law can be found in Module 4, “Assessing Proactive Disclosure: Law versus Practice,” and Module 5, “Using Your Rights to Request Pollution Information.” Evaluating participation forums is discussed in Module 7, “Strengthening Participation: Identifying and Using the Right Forums to Address Pollution.” Once you carry out the activities outlined in these modules, you will be able to create an advocacy strategy to fight pollution based on a complete vision of your environmental rights.

**USING YOUR LEGAL ANALYSIS FOR ADVOCACY**

Once your legal review of environmental rights is complete, you should have a clear picture of the actions government and polluting companies are required to take to control pollution and how you can access information, participate in the process, and hold actors accountable. This input will help guide your advocacy demands regarding compliance with and enforcement of pollution laws and help prioritize the specific strategies you should use to address your concerns. More information about developing advocacy campaigns is provided in Module 8, “Bringing It All Together: Using Accountability and Advocacy to Tackle Pollution.”

To help you synthesize your legal analysis, consider the key questions below and how they could shape strategies that support your advocacy. Use the analysis framework provided in Table 12 to identify the key legal barriers impacting pollution that could arise in your advocacy campaign.

- **Are appropriate standards (air, water, land) set for the facility? Or for ambient air and water quality?**
- **Is there a national strategy for improving air and water quality?**
- **Is air and water quality information publicly accessible on a timely basis?**

- Are fees or taxes assessed for the discharge of pollutants (to apply the polluter-pays principle)?
- Is there a breach of environmental standards that can be determined through monitoring information?
- Which agency should you target to make sure compliance and enforcement requirements are being met?
- Was the environmental impact assessment prepared adequately, and did it propose enforceable mitigation requirements?
- Has the facility complied with the requirements and conditions of its permits?
- Which organization could support accountability actions to benefit the local community?



Table 12 | Advocacy Legal Analysis Framework

ELEMENT OF ANALYSIS	DOCUMENTS	STRATEGIES
<p><b>Breach of environmental standards:</b> How adequate are the standard setting processes governing pollution?</p> <p>Are all the pollutants released by the industry covered by the standard?</p> <p>Are standards set at the appropriate level to cause no environmental or public health concerns?</p>	<p>National air, water, and land standards and regulations</p> <p>International standards from the World Health Organization</p> <p>Legally mandated or voluntary discharge standards for pollutants from specific industries</p>	<p>Consider whether the government has failed to regulate certain emissions or effluents by law but is still allowing them to be released by polluting facilities.</p> <p>Consider whether the standards are close to or exceed environmental or public health standards.</p> <p>Consider whether there is evidence of noncompliance or breach of standards by the facility or facilities in your community.</p>
<p><b>Permits:</b> What is your understanding of the amount of the emissions or discharges entering the environment, including</p> <ul style="list-style-type: none"> <li>■ the amount of (yearly, monthly) emissions or discharges from the facility and</li> <li>■ the number of facilities releasing pollution into the environment in question.</li> </ul> <p>Does the information provided enable you to assess whether the facility is in compliance with current environmental quality standards and with its permits?</p>	<p>Permits, environmental impact assessments (EIAs), enforcement reports</p>	<p>Consider whether the facility is complying with its permit. Is there a renewal date with a public comment period you should note?</p> <p>Consider whether the facility in question is solely responsible for environmental harm or impacts to health.</p> <p>Consider the cumulative impact of several facilities.</p>

Table 12 | Advocacy Legal Analysis Framework (Cont'd)

ELEMENT OF ANALYSIS	DOCUMENTS	STRATEGIES
<p><b>Agency responsible:</b> Which agency or agencies with mandates and jurisdiction over monitoring, management, and enforcement of the facility can you approach to take action?</p>	<p>Environmental management law, laws that govern inspection and enforcement</p>	<p>Consider which agencies you can target to seek enforcement or compliance action against the facility and their respective powers to enforce compliance.</p> <p>Are there any agencies where you could report your concern over how the pollution violates human or environmental rights?</p>
<p><b>Adequacy of EIA:</b> Was the EIA adequate in terms of</p> <ul style="list-style-type: none"> <li>■ anticipation of impact, including the siting of the facility;</li> <li>■ the discharge of waste;</li> <li>■ damage to health, livelihoods, or the environment;</li> <li>■ cumulative effects;</li> <li>■ greenhouse gas emissions; and</li> <li>■ potential impacts to vulnerable populations, such as pregnant women and children.</li> </ul>	<p>EIAs/permits</p>	<p>Consider if deficiencies in the EIA have contributed to noncompliance or whether the terms of the EIA can be used to compel mitigation measures at the facility.</p> <p>Note any public comment or hearing opportunities.</p>
<p><b>Monitoring:</b> Are the legal requirements for monitoring effluent and emission discharges sufficient to track the actual amount of pollution being released into the environment?</p> <p>How and when does the facility report compliance, including frequency of monitoring?</p> <p>Does monitoring data enable you to assess whether the facility is complying with current environmental quality standards or permits?</p>	<p>Environmental management law; permits; environmental standards for air, water, land</p>	<p>Consider if you want to demand more robust or more frequent monitoring of pollution as part of your advocacy.</p> <p>Consider if there are any failures by the facility to report or failures by the government agency to conduct monitoring that could be used in your advocacy.</p>



Table 12 | Advocacy Legal Analysis Framework (Cont'd)

ELEMENT OF ANALYSIS	DOCUMENTS	STRATEGIES
<p><b>Compliance and enforcement:</b> Is the facility consistently complying with its pollution control requirements? Can you access current enforcement and compliance reports?</p> <p>What is the history of compliance and enforcement at the facility, including number of complaints received and past reports on actions taken to address remediation, cleanup, or restitution?</p> <p>Are government agencies or police enforcement powers adequate to ensure compliance with the regulatory provisions relevant to the targeted facility?</p> <p>Can you bring a citizen suit or take other collective or public action (administrative or judicial) to ensure compliance with the regulatory provisions relevant to the targeted facility?</p>	<p>Provisions of environmental or sectoral laws, enforcement and inspection powers, administrative or judicial rules</p>	<p>Consider if you want to target the polluting facility's poor compliance behavior as part of your advocacy.</p> <p>Consider if you should demand that enforcement agencies use their existing powers to strengthen compliance with environmental standards as part of your advocacy. Do you want to advocate for changes to the laws to strengthen enforcement powers?</p> <p>Consider how you can use public enforcement powers such as citizen suits or appeals processes to facilitate compliance with environmental standards.</p>
<p><b>Independence:</b> How can you leverage the mechanisms and jurisdictions of independent institutions that allow the public to complain about damage to the environment or impact to health?</p> <p>What is the outcome history for the decisions made by these institutions? Do they have a history of strong action?</p>	<p>Any laws that create independent authorities, such as ombudspersons, who can support citizens who take action?</p>	<p>Consider how and when to use appeals mechanisms strategically to support your case.</p>







BOX 8

**Insights from Indonesia’s Legal Assessment**

In Indonesia, the 2013 legal assessment revealed important gaps and limitations in the water pollution control system associated with the PT IKPP pulp and paper mill. These included the following:

- The national quality standard for liquid waste discharged in the pulp and paper industry did not cover specific adsorbable organic halides (AOX), organochlorine-based toxic chemicals created and released when companies used chlorine-based chemicals in the papermaking process.
- A discrepancy existed between the number of parameters required to test the river water quality in the laboratory and parameters actually collected to evaluate river water quality in the field.
- A measurement for the carrying capacity of rivers was not used when determining the waste volume allowed to be dumped.

**1. The assessment of the air pollution-control practices of the coal-fired plant Tanjung Jati B (TJB) found the following:**

- Air pollution control, from the pembangkit listrik tenaga uap (coal-fired steam power plant, PLTU) TJB Activity.
- The results from and location of the control stations that monitor air quality are not shared with the community.
- Data related to air quality control are still difficult for the community in Tubanan Village and people in general to understand.<sup>a</sup>
- Environmental impact assessment (EIA) reports don’t cover all harmful substances released or emitted into the environment (e.g., mercury, volatile organic compounds released by a coal-fired power plant).

**2. Analisis mengenai dampak lingkungan (environmental impact assessment, AMDAL/EIA) information and health of community**

- The community does not know the EIA documents exist, let alone how to read them.
- The community does not know what steps to take to overcome the impacts of the PLTU TJB operation.
- Cumulative impacts are not analyzed in the document and EIA.
- There is no monitoring of community health related to the PLTU TJB operation.
- Imipenem-sensitive *Pseudomonas aeruginosa* (ISPA, an upper respiratory tract infection) is relatively high, which was foreseen in the EIA; there is no explanation, however, of what the community should do.

<sup>a</sup> To help them interpret such data, STRIPE partners consulted Mark Chernaik, a staff scientist with Environmental Law Alliance Worldwide and an expert on air quality, as well as Kania Dewi of Indonesia’s Bandung Institute of Technology.

Insights from these assessments can be found from Jamaica, Thailand, and Indonesia (for the third, see Box 8), which all conducted comprehensive legal assessments. These assessments helped determine the advocacy activities used to address pollution from specific facilities. Box 9 offers suggestions for legal assessments.



BOX 9

**Tips for Conducting a Legal Assessment**

- Collect and analyze case law in addition to reviewing legislation.
- Assess the mandate of human rights institutions and other independent government organizations and whether they can take action to address pollution, including prosecutions.
- Consider regulation of point and diffuse sources of pollution, including the impact of multiple industries discharging into the air, water, or land.
- Consider legal liabilities in relation to public authorities and private actors who infringe environmental laws and whether it is possible to address both actions and omissions that create risks for the environment and public health.

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