

# The Rise of Environmental Justice:

## *Reconsidering Equality, Balancing Burdens*

### Introduction

Over the last three decades, there has been increased attention given to the impact of an unhealthy environment on particular segments of American society. A substantial body of evidence has provoked concern that minority populations and low-income populations bear a disproportionate amount of adverse health and environmental effects.

### Definitions

A series of terms describe these recent developments. “Environmental racism” and “environmental injustice” are often used to describe the problem, while “environmental equity” and “environmental justice” refer to solutions that have been developed.

*Environmental Racism* refers to the disproportionate placement of chemical factories, landfills, toxic waste dumps, incinerators and other environmental burdens in minority communities on the basis of their racial or ethnic composition.

*Environmental Injustice* refers to the placement of environmental burdens in lower-income communities as well as racial or ethnic minority communities. Studies indicate that race and community incomes are primary indicators of the siting locations of environmental burdens. Minorities and low-income individuals traditionally have not had the financial or political resources required to influence siting decisions.

*Environmental Equity* describes the even distribution of environmental costs and benefits among communities regardless of their racial or ethnic composition.

*Environmental Justice* is similar to environmental equity. However, environmental justice not only involves outcomes (formal siting decisions) but processes (how these decisions are reached) as well. Environmental justice is served when all persons in a community, regardless of race or income, are equitably involved in the planning, implementation, and enforcement of environmental policy and regulation.

In 1998, the United States Environmental Protection Agency (EPA) defined environmental justice as:

*“The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people, including racial, ethnic, or socioeconomic group should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.” (EPA)*

Author Bunyan Bryant argues in his book *Environmental Justice* that environmental justice is:

*“... broader in scope than environmental equity. It refers to those cultural norms and values, rules, regulations, behaviors, policies and decisions to support sustainable communities, where people can interact with confidence that their environment is safe, nurturing, and productive.”*

The History of the Environmental Justice Movement  
The national environmental justice movement began out of a small, low-income, predominantly African-American community in Warren County, North Carolina. In the summer of 1978, employees of Ward Transformer Company illegally dumped waste oil laced with polychlorinated biphenyls (PCBs) along the roadsides of fourteen counties. A landfill to be located in Warren County was proposed as the burial site for the 32,000 cubic yards of contaminated soil generated by the illegal dumping. (Bryant, 4) However, residents of Warren County believed that the proposed landfill location was politically motivated and an ecologically unsound choice. At the time, Afton, the area in which the contaminants were going to be dumped, was more than 84% African-American. (Bullard, 1990) Warren County had a per capita income of \$6,984, which was far below the state average. (Bullard, 1990)

Residents claimed that the situation represented environmental racism and mobilized. In 1982, civil rights and environmental interests joined together for the first time in a national protest against the proposed landfill. More than 500 peaceful protestors were arrested, including Dr. Benjamin Chavis, Executive Director of the United Church of Christ Commission for Racial Justice and Walter Fauntroy, the District of Columbia’s Congressional Representative. (Bryant, 23)



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Although the citizens were unsuccessful in preventing the landfill's final siting, they successfully drew national attention to claims of environmental racism. The resulting interest spurred numerous private and governmental studies. In 1983, at the behest of Congressman Walter Fauntroy, the U.S. General Accounting Office (GAO) conducted a study to determine whether race correlated with hazardous waste disposal facility siting in EPA Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee). The GAO surveyed all off-site commercial hazardous waste landfills in the region. The study revealed that three out of the four identified landfills were sited near predominantly minority communities.

### Commission for Racial Justice

In 1987, the United Church of Christ's Commission for Racial Justice (CRJ) conducted a study and released a report entitled *Toxic Wastes and Race in the United States: A National Report on the Racial and Socioeconomic Characteristics of Communities with Hazardous Waste Sites*. The report supported the case that race is the most consistent factor correlated with hazardous waste facility siting. Among the CRJ report findings:

- Three out of every five African-Americans or Hispanics lived in a community with an unregulated toxic waste facility.
- Communities with the highest number of hazardous waste facilities had the highest concentration of minority residents.
- In communities with two or more hazardous waste facilities or one of the nation's five largest landfills, the minority population was more than three times the size of communities without facilities
- In communities with one facility, the minority population was twice the size of communities without facilities (24% v. 12%).
- Property values and incomes were substantially lower in communities with commercial hazardous waste facilities than in surrounding communities without facilities.
- Three out of the five largest commercial hazardous waste landfills in the US were located in predominately African-American or Hispanic communities. These landfills accounted for 40 percent of the capacity of such landfills in the nation.

### EJ in Appalachia: Mountaintop Removal

One environmental justice issue is the practice of mountaintop removal coal mining. Mountaintop removal is a mining practice where the tops of mountains are blasted off with dynamite to expose buried streams of coal. Often, the earth removed from the summit is then dumped into neighboring valleys. The practice is most prevalent in West Virginia, Virginia, Kentucky and Tennessee. Affected communities in these impoverished areas may have to cope with the environmental impacts of mountaintop removal, including loss or contamination of drinking water, the burial of streams and the loss of habitat in areas of extremely rich biodiversity.

In June, 2009, the Obama administration announced a plan to curb the use of federal permitting for mountaintop coal mining and better protect rivers and streams from mining debris. (Bontrager, 2009) Nancy Sutley, Chairwoman of the White House Council on Environmental Quality issued a statement saying, "The Obama administration has serious concerns about the impacts of mountaintop removal mining on our natural resources and on the health and welfare of the Appalachian communities." (Bontrager, 2009) The plan would preclude the use of Army Corps of Engineers "nationwide permits" to authorize the discharge of debris into water bodies from surface-mining operations in Appalachia. (Bontrager, 2009) The President is also calling for greater scrutiny of state mining regulators. (Bontrager, 2009) Uncertainty about exactly what that means has advocates for and against mountaintop removal concerned.



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With the help of the CRJ, the First National People of Color Environmental Leadership Summit was held in 1991 during which 17 Principles of Environmental Justice were established. Reauthorized in 2002, these principles have been a guiding force in the grassroots environmental justice movement.

### Federal Government Response

In 1990, EPA Administrator William Reilly created the Environmental Equity Workgroup. Comprised of staff from all EPA offices and regions, its duty is to assess all evidence that minority populations and low-income populations bear a disproportionate burden of environmental hazards. (EPA, 1992)

In 1992, the Workgroup released its *Environmental Equity, Reducing Risk for all Communities* Report, which stated that minorities and the poor are at a higher risk of hazardous waste exposure and sustain more environmental costs than other population groups. (EPA, 1992) In that same year, at the Workgroup's recommendation, the EPA created the Office of Environmental Justice (OEJ). The EPA Office of Enforcement and Compliance Assistance oversees the Office, which supervises the Agency's integration of environmental justice in its policies, programs, and regulations.

OEJ also serves as a technical and financial resource to other governmental agencies and to communities to assist them in the promotion of environmental justice. In 1993, the National Environmental Justice Advisory Council (NEJAC) was established in order to provide the Administrator of the EPA with guidance on issues pertaining to environmental justice. (NEJAC, 2010)

In 1994, President Bill Clinton issued Executive Order 12898. The Order mandated that federal government agencies incorporate environmental justice as part of their missions by identifying and addressing disproportionately high and adverse human health or environmental effects on minority or low-income populations in their programs, policies, and activities. Specifically, each federal agency must develop an Environmental Justice Strategy that addresses these concerns. Finally, the Order also created the Interagency Working Group (IWG) on environmental justice. The EPA Administrator chairs the IWG, which is comprised of the heads of

eleven departments/agencies and several White House offices to promote governmental collaboration.

Since 1994, the Office of Environmental Justice has funded several grant programs, which promote community groups' education and management of local environmental justice issues. Most notably, the *Community Small Grants Program*, now *Environmental Justice Hazardous Substance Research Small Grants Program*, has awarded approximately 1,100 community groups with more than \$20 million. (EPA, 2010)

In 2000, OEJ founded the Community Intern Program. Originally established as an internship opportunity for college students to work in EPA programs, the Program now places students in community organizations that address environmental issues at the local level.

In 2001, the Administrator of the EPA mandated that all EPA policies and programs be compliant with environmental justice standards. (EnviroJustice) Each office developed and deployed an Environmental Justice Action Plan for the standards in FY2003, making a commitment for implementation within the next 5 years. As part of this commitment, each EPA office is required to submit a progress report explaining how they have met their goals for that fiscal year. (EnviroJustice, 2010)

Most recently, the EPA has announced that it is releasing an interim guidance document "to help agency staff incorporate environmental justice into the agency's rule-making process." (EPA, 2010) The document entitled, "The Interim Guidance on Considering Environmental Justice During the Development of an Action", is a document that guides EPA staff to ask the right questions during the rulemaking process. (EPA, 2010)

Currently, Virginia's Department of Environmental Quality (DEQ) does not have a comprehensive policy on environmental justice or an equivalent to EPA's Office of Environmental Justice. However, according to Angela Neilan, a Community Involvement Specialist at DEQ, community participation and outreach are integral to DEQ's mission. (DEQ, 2010) Staff regularly make substantial efforts to involve all members of an affected community, from door-to-door canvassing to making staff available for public education.



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### The Shintech Case

The community of St. James Parish in Convent, Louisiana, served as the test case for Clinton's Executive Order 12898. Convent was the proposed site for a \$700 million chemical plant that would produce 1.1 billion pounds of polyvinyl chloride and be permitted to emit 611,700 pounds of toxic air contaminants each year, many of them known to be potent carcinogens. The proposed site was located within walking distance of homes and schools. At the time of the proposal, Convent was home to 2,052 people, 80 percent African-American and 40 percent at or below the poverty level. According to EPA's Title VI investigation, Shintech would expose the African-American population in St. James Parish to 71- 242 percent more airborne industrial toxins than the white population. Furthermore,

"in 1995, 10 facilities within 4.5 miles of the two elementary schools in Convent emitted over 16 million pounds of toxic air pollutants, an average of 250,000 pounds of industrial poisons per square mile; the national average is 382 pounds per square mile. A recent study examining cancer deaths in St. James Parish found an excess mortality of 41% for whites and 59% for African-Americans for the years 1979-1992" (Cray and Harden, 1998).

In this case, the local struggle against the siting of the plant drew national interest. After intense media attention and the involvement of EPA and other environmental groups, the company withdrew its proposal. (Cray and Harden, 1998)

### Is Environmental Injustice Based on Race and Ethnicity, Socioeconomic Class, or Political Mobilization?

#### Race and Ethnicity

When all other factors are held constant, are race and ethnicity the most significant predictors of the presence of environmental burdens and absence of environmental benefits in a community? There is a body of literature that reveals this relationship, as race has either been found to be a "significant" or the "most important" predictor of environmental siting in a number of studies (Lester, Allen, and Hill, 2001). In *Confronting Environmental Racism: Voices From the Grassroots*, Robert Bullard states, "people of color, however, face elevated toxic exposure levels even when social class variables (income, education, and occupational status) are held constant." Based on "the predominant trend in research" there is a definitive correlation between the racial and ethnic composition of a community and its exposure to environmental hazards (Bullard, 1993).

In their study, James P. Lester, David W. Allen, and Kelly M. Hill found evidence of race-based environmental injustice in African -American communities in 86 percent of their data. They conclude that race as a variable, particularly within African-American communities, is therefore a positive predictor of the presence of environmental hazards in a community.

Additionally, there was evidence of environmental injustice affecting Hispanic communities in 50 percent of their data. The study concluded that race is indeed a factor that "point[s] to incidences of environmental injustice for African-American and Hispanic -American" communities. (Lester, Allen, and Hill, 2001)

#### Socioeconomic Class

Is the unequal distribution of environmental burdens and benefits influenced primarily by socioeconomic class? The study completed by Lester, Allen, and Hill produced mixed findings. While some of the data they collected provides support for class-based environmental injustice, other findings showed little or no relationship between class and the presence of environmental injustice. Without further evidence, socioeconomic class is less informative than race as an indicator of environmental injustice.





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### **Hurricane Katrina and Environmental Justice**

The lingering effects of Hurricane Katrina have brought national attention to issues of environmental injustice. While the storm significantly disrupted all New Orleans residents, poor African-Americans were disproportionately affected.

News reports focused on the extensive destruction in the Lower Ninth Ward, a neighborhood of working class African-Americans. Television images of refugees in the Superdome allowed audiences worldwide to watch those who were unable to escape as Katrina approached, and it appeared that those seeking shelter were disproportionately African-American. To what extent did these images reflect reality? Did Hurricane Katrina cause significant environmental injustices to occur? Did it expose already existing weaknesses within a system unwilling or unable to aid those most vulnerable to natural disaster?

In an article written for Grist Magazine two weeks after Katrina, Liza Featherstone summarized the feelings of many: "For years ... advocates have been telling anyone who'd listen that blacks in New Orleans were far more affected by environmental problems than the white folks in, say, the Garden District -- and would be far more vulnerable in a disaster." A 2006 Kaiser Family Foundation survey, describing the continued effects of Katrina on New Orleans residents, confirmed this opinion.

It found that there was a "big racial divide in experiences and views ... [particularly] in the way that African-Americans and whites in the New Orleans area experienced the storm and perceive the recovery efforts."

Cleanup efforts have likewise affected different races and classes disproportionately. According to Bullard and Wright (2009), "communities least affected by the storm tend to have larger percentages of white residents....While these areas received less damage, they have also benefited the most from federal dollars for recovery." Meanwhile, services such as streetlights, public education and grocery stores were slower to be restored in areas like the Lower 9th Ward and New Orleans East. (Bullard & Wright, 2009) Further, much of the storm-related debris was removed to a re-opened, unlined landfill in New Orleans East, where the population is majority African-American. This hazardous waste includes fuel tanks, petrochemicals, cars and demolition debris, but is treated as ordinary household waste, leading to concern about potential toxic chemicals leeching into their neighborhoods. (Bullard, 2007)

The future of New Orleans and the demographic makeup of the rebuilt city are uncertain. As the city continues to evaluate its vision for the future, it faces the difficult task of balancing the desires of an underserved community wanting to rebuild their own neighborhood and the ecological realities of the flood-prone Ninth Ward.

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### *Political Mobilization*

Is the uneven distribution of environmental burdens and benefits influenced primarily by political mobilization? With all other factors held constant, is the absence or presence of a public mobilized effort a predictor in the allocation of environmental burdens and environmental benefits in a community?

“Consistent findings indicate that there was either no relationship between political mobilization and environmental harms or that the relationship was opposite to the initial hypothesis. This finding stands in stark contrast to the idea that politically mobilized communities capture the attention of decision makers and, thus, increased political mobilization has the effect of minimizing environmental harms.” (Lester, Allen, and Hill, 2001) Only a few studies in the Lester, Allen, and Hill review confirmed that political mobilization yielded decreased risk or likelihood of a community’s exposure to environmental hazards. Given these findings, political mobilization is informative as an indicator of environmental injustice.

### **Critics of Environmental Justice**

While much data and literature supports the significance of environmental injustice, there is some disagreement as to why and to what extent certain communities are affected, and whether in fact this phenomenon actually exists. Christopher Foreman, Jr. in *The Promise and Peril of Environmental Justice* recognizes that environmental decisions of businesses and government have potentially serious implications for social equity in minority and poor communities but argues against the current environmental justice movement. The author states what he believes to be five major shortcomings of the movement:

- Empirical data is weaker than environmental justice advocates admit; this lack of supportive evidence will hinder justification for major future policy changes.
- “Environmental justice is driven by aspirations for community empowerment, for social justice, and for public health”; the federal government cannot alleviate those concerns under the guise of environmental protection.

- Environmental justice diverts community attention from more serious environmental risks and problems and may thereby cause more harm than good.
- If pursued aggressively, environmental justice may “exacerbate aspects of environmental policy making that have been widely” lamented (economic inefficiency, gap between public perception of risk and actual risk, local inflexibility in siting issues, and muddled policy priorities).
- A federal government approach to environmental justice has many stumbling blocks (lack of congressional support, primacy of states and localities in siting issues, infeasibility of banning all new siting in or near minority or poor communities).

Foreman further critiques the movement by quoting legal activist Luke Cole, who contended that the intent of all environmental law is to protect the established classes of society at the expense of those less politically empowered. Through this analytical lens, Cole claimed that “the siting of unwanted facilities in neighborhoods where people of color live must not be seen as a *failure* of environmental law, but as a *success* of environmental law. While we may decry the *outcome*, the laws are working as they were designed to work.” (Foreman, 1998).

Other critics argue that it is highly unlikely that certain communities were ever overtly targeted for siting specifically because of their income level or minority status. Instead, they note that most siting decisions were based on economics, geological suitability and the political climate.

Daniel Doctoroff, New York City’s deputy mayor addressed the issue by saying “Taxpayers will inevitably question why they should foot the bill for a sewage-treatment plant on the Upper East Side when it could be placed in a far less expensive neighborhood.” At worst, critics conclude, the errors are those of insensitivity rather than racism. (Little, 2007)

### **Conclusion**

The evidence immediately presented does not definitively conclude that inequities in the distribution of environmental benefits and burdens are the result of intentional racist business practices or political decisions.



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However, the findings do demonstrate that the distribution of environmental benefits and burdens is disproportionate between groups. Of the three examined factors, race and ethnicity are the strongest predictors of environmental injustice, while socioeconomic class and political mobilization are less informative. But, whether burdens have a greater effect on minority groups or those living in poverty, the costs are most often endured by the poorest members (socially, economically, politically) of our society.

Updated 08/2012 by Melissa Keywood

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