“Environmental Justice: Co-Evolution of Environmental Concerns and Social Justice”

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Environmental Justice: Co-evolution of Environmental Concerns and Social Justice

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Summary
This paper describes the co-evolution of environmental concerns with civil rights. Over the last 20 years the two issues have found considerable overlap in what is now called the environmental justice movement. The results are exciting, with implications about decision-making, about protecting both environmental quality and civil rights. The promotion of environmental justice spurs social progress. Safeguarding the health of the environment(s) reinforces civil rights.

Introduction
In the USA, two very distinct social movements – civil rights and environmentalism – are rethinking their priorities in the face of challenges posed by the issue of environmental justice. The National Association for the Advancement of Coloured People (NAACP) has made environmental justice one of the central themes of its civil rights activity, the Environmental Protection Agency (EPA) recently created an Office of Environmental Equity to address environmental justice concerns, environmental justice law suits have been filed under legal provisions designed to prevent discrimination, major environmental organizations like the Sierra Club have embraced the environmental justice issue, and the US Congress is considering passage of The Environmental Justice Act.

Environmental justice is significant for the level of attention it is receiving amongst policy-makers and grassroots organizers. But beyond this, it represents a significant confluence of two streams of social activism that have historically been separate. Not that environmentalism and civil rights have merged. The two movements have found this moment in history to interact with each other in the arena of environmental justice.

What is Environmental Justice?
Environmental justice revolves around the notion that some populations – in the United States, blacks, native Americans, Hispanics, poor people – are (1) at greater risk than others from environmental contamination; (2) suffer more from environmental nuisance – whether or not risk is a factor – such as having to live adjacent to waste management facilities; and (3) are excluded from access to the policy-making and decision-making process (see also Bullard, 1993, for a different characterisation).

To a certain extent, the existence of environmental injustice is intuitively true; why should inequities that exist throughout society not be present in environmental matters as well? When the city of New York needed to site a garbage-burning incinerator, no one ever thought to site it along Park Avenue or Central Park West. Instead, a Brooklyn neighborhood of warehouses and tenement housing was the first choice of city officials. Common sense suggests that a combination of wealth and heritage confers influence; influence enough to keep an undesirable project out of an exclusive neighborhood. It is people disenfranchised from power that suffer garbage incinerators and landfills.

But are issues of environmental justice really so bold-faced? In examining the 'real world', issues of fairness are not always simple. Say, a private firm decides to build a hazardous waste facility – not just

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a dump, but a modern, sophisticated treatment and disposal facility – in a poor, black, rural neighbourhood. Part of the community response is absolutely predictable: citizens will vehemently oppose the facility on the grounds of the dangers it presents to their communities. But others, possibly less visible, will have just the opposite response. The facility will be welcomed as a needed source of jobs and as an added tax base to a community sorely in need. The company’s assurances of the safety of the facility – perhaps backed up by government spokespeople – are enough to overcome hesitations. To this group at least, the new facility is welcome. Put another way, the desire for economic justice – for a larger slice of the economic pie – can outweigh concerns about environmental justice. But are not all communities entitled to both?

These scenarios raise questions of social justice and environmental quality; issues that, until recently, have been addressed through the largely separate movements of civil rights and environmental activism. Recently, however, the two have become closely linked in social policy through the work of Reverend Ben Chavis and others (Bullard, 1990; 1993; Bryant and Mohai, 1992). In the early 1980s, Dr Chavis and other civil rights organizers led protests in North Carolina against the creation of dump sites for PCB-contaminated soil in poor, black, neighbourhoods. The protesters saw this not as an isolated incident, but as an example of ‘environmental racism’ that was being repeated throughout the country. There is data to back this up – more than 65 percent of blacks and almost 80 percent of Hispanics live in areas that are out of compliance with Clean Air Act standards for at least part of the year; the equivalent figure for white populations is only 55 percent (Wernette and Nieves, 1992).

It is important to consider the issues of environmental justice in more detail. To set the stage, an overview of the expansion of the rights of citizens to both equitable treatment and a healthy environment is presented. This development has resulted in an expansion of the notion of justice to include ‘Environmental Justice’. It is suggested that this trend is beneficial for civilization both with regard to personal rights and to those of others, and the consideration of nature and the common environment.

The Convergence of Civil and Environmental Rights

The notion of negative versus positive rights is an important distinction often used to characterise the development of American democracy. ‘Negative rights’ have to do with a conception of non-interference; keeping government to a minimum (Berlin, 1969; 1979). The cornerstone of the notion of negative rights is the protection of the individual from government. Adam Smith and others envisioned a government only there to safeguard freedom. Jeffersonian democracy, the bedrock of the American Revolution, was designed to keep government and other external authorities off the backs of the people.

The Second American Revolution, as it has been called, developed in the mid-1800s and involved the expansion of government into the realm of ‘positive rights’ – actively protecting the rights of individuals to the guarantees of life, liberty and happiness. This has been somewhat identified with Lincoln and the vision of government as playing a positive role in liberating people who are otherwise excluded from power (McPherson, 1990). It was identified with his liberating blacks, and then with constitutional amendments to provide additional legal protections.

The 13th, 14th and 15th Amendments are clearly designed to promote political participation and to protect individual rights in the United States. The 13th Amendment abolished slavery, the 14th established citizenship for ex-slaves, and the 15th limited the authority of States to deprive freed slaves of the right to vote (Wellington, 1990). But these advancements were not strengthened by the years that followed. In fact, they were systematically put back by a furious conservative backlash. For nearly a century those modest advances in civil rights lay dormant, and the rights of the black and other minorities were abused.

The history of environmentalism is more diffuse, and largely belongs in the realm of positive rights – the right of people to a safe environment and to the continued existence of wilderness – and the responsibility of government to insure these things. But inherent in environmentalism throughout the 1970s and ’80s was an unspoken presumption of negative rights – the presumption that protecting and improving environmental quality would provide equal benefits to all. With the advent of the movement towards environmental justice, society is again approaching an expansion into positive rights, that is, the affirmative duty of the government to insure that the pains of environmental contamination, and the benefits of environmental protection, are distributed equitably throughout society.

One way to look at the evolution of environmental laws is from the perspective of prerogative: who gets access to information on environmental problems; who decides what action to take. Prior to the modern era of environmental protection, both information and decision-making
were the exclusive realm of the private sector. Those who generated pollution were the only ones with any information about it – quantities, types, health effects – and were the ones making the decisions about waste disposal. All too often, those decisions resulted in horrific pollution episodes: rivers that burst into flames, smog-enshrouded cities, uncontrolled dumping of hazardous wastes; contaminated drinking water.

Eventually, the resulting debilitation of the environment was so blatant that even the lack of access to any meaningful information could not hide the fact that both the environment and public health were at enormous risk. The public outcry in the late 1960s, culminating with the 1970 celebration of the first Earth Day, led society in the direction of

Fig. 1. An evolutionary convergence of civil and social rights in the United States with environmental issues. The two movements remain separate, but each has discovered the overlap with the other, thereby to some extent empowering one another.
Race, Poverty and the Environment

Air Quality

- White
- Black
- Hispanic

Lead Poisoning

- Black
- White

Fig. 2 The inequity of environmental exposures. Blacks and Hispanics experience significantly higher exposures to all major categories of air pollutants. Children in black families suffer more frequently from lead poisoning than do children of white families, irrespective of income levels.

Hazardous Waste Law Enforcement

Fig. 3 The relation between race and income with regard to environmental injustice. Fines levied by the Environmental Protection Agency for environmental violations of hazardous waste laws are routinely greater in white neighbourhoods than in black neighbourhoods; no similar disparity exists when data are analyzed by income levels.
expanding environmental information access and environmental decision-making.

At first, the environmental decision-making, which had formerly been the exclusive realm of industry, was shared with government. A newly-created Environmental Protection Agency implemented dozens of environmental laws, imposed limits on the types and amounts of pollutants that would be tolerated in the environment, mandated how wastes could be disposed of and collected enormous amounts of information as a means of tracking compliance with the law.

In theory, the public was meant to be an active part of this process. Even early environmental laws like the Clean Air Act and Clean Water Act recognized the importance of bringing the public into the decision-making process and made provision for public access to records, involvement in public hearings and public comment on new regulations. In practice, though, public involvement was severely limited by a government system that quickly grew complex, cumbersome and prone to secrecy. Public files of environmental permits were thick with mysterious documents written in arcane legalistic and technical language. Only someone with years of familiarity with the system (which was constantly in flux) could hope to make any sense of the information. Although a few professional public interest groups learned to make use of the permit files and other routes to government access, the general public was effectively closed out of the process.

In the 1980s, the second decade of American environmentalism, a new theme began to enter the environmental dialogue – the public’s right-to-know. Inherent in the concept of right-to-know is the notion that government and the private sector not only must allow citizens access to existing information and to the decision-making process, but also have a responsibility to actively insure public access. This responsibility is embodied in worker and community right-to-know laws.

A clear evolution from an industry-only involvement in environmental issues, to industry and government, to one where industry, government and the public at large are partners has occurred. Is this the last step in the evolutionary chain? Probably not: the next step in the process is what is coming to be known as environmental justice. Figure 1 depicts the co-evolution of environmental concerns and the expanding sense of social justice in the United States. This co-evolution only recently converged with the sense of environmental justice.

Environmental Justice in Practice

In the context of what has been discussed, environmental justice means equal access to all, irrespective of race, heritage, economic class, etc. It means that environmental decisions of importance to inner-city black populations, to the rural poor, to Chicago farm workers, should actively involve those people rather than be left to distant bureaucrats or professional environmental activists, most of whom are non-black, non-poor, non-Chicago.

The movement has continued to grow. A 1991 conference, the First National People of Color Environmental Leadership summit, drew attendees from around the United States. Soon after, the Environmental Protection Agency established an Office of Environmental Equity to address these issues head on. Mainstream environmental organizations, like the Sierra Club and the Natural Resources Defense Council, had long stayed silent in the face of charges that minority interests were not represented either by the composition of the staff and Boards of these organizations, or by the issues they addressed. Now, these organizations are beginning to speak up on the issue of environmental justice, and to acknowledge their own culpability in contributing to past inequities. To some observers, these steps seem little more than window dressing. At the very least, however, these responses are a clear signal that environmental institutions are no longer comfortable ignoring the issue of environmental justice.

The modern environmental justice movement gained prominence in 1987, when the United Church of Christ’s Commission on Racial Justice released a report entitled “Toxic Waste and Race” (Commission for Racial Justice, 1987), which quickly received considerable national attention. Other studies have followed the “Toxic Waste and Race” study. The National Law Journal (1992), in a special issue article entitled "Unequal Protection: The Racial Divide in Environmental Law", reported their findings that EPA clean-up efforts at Superfund sites were faster and more sophisticated, and fines against polluters were greater, in white neighbourhoods than in minority neighbourhoods. The authors of the report were careful to point out that the inequities they observed seemed clearly linked to race rather than income, a point that had been made in earlier studies.

The EPA, in a study reported on the front page of the New York Times (1993b), documented the disproportionately high incidence of lead poisoning among urban black children, as well as the greater exposures to common pollutants (particulates, carbon monoxide, ozone, etc.) experienced by blacks and Hispanics relative to white populations.
Figure 2 depicts some of these relationships between race, poverty and exposure to environmental hazards. In the United States, air pollution affects larger percentages of black and Hispanic populations than of whites. For instance, 34 percent of the white population live in areas polluted by an excess of carbon monoxide, while the figure is 46 percent for the black population and 57 percent for Hispanics. So too with lead poisoning in children. Black children are affected at twice the rate of white children. Although the incidence of lead poisoning declines with increasing income levels, it remains consistently higher for blacks than for whites.

The overlapping factors of race and income have been particularly troubling to the environmental justice movement. The United Church of Christ’s 1987 report concluded that race was a more important factor than income in determining environmental exposure. Put more bluntly, the environmental justice movement levelled a charge of environmental racism against the EPA and other environmental protection authorities; a charge which was vigorously denied. However, later work lent considerable credence to this charge. The National Law Journal study of the degree of environmental enforcement in different communities concluded that the "... Federal government, in its clean up of hazardous sites and its pursuit of polluters, favors white communities over minority communities" (Fig.3).

The momentum that these activities have created was well summed up by the Reverend Benjamin Chavis Jr of the United Church of Christ, and the person named to head the NAACP in 1993: "The idea of civil rights is expanding to include freedom from pollution, and an emphasis on social justice is being added to the idea of environmental protection" (New York Times, 1993b).

There is a convergence of civil rights, the concern to participate in social politics, to be afforded fair and judicious opportunities for advancing citizenship, with environmental concerns. This convergence has also focused on future generations and what they would inherit of the environment; the rights of future generations, therefore, have also become a consideration (Weiss-Brown, 1993).

The Environmental Justice Act

Issues discussed here have reached the halls of Congress, in the form of a legislative proposal, The Environmental Justice Act. The Bill has some formidable support; it was originally introduced in the Senate by the then Senator Al Gore. The Bill tackles directly the aspects of environmental justice that have been laid out above:

Unequal risk

The Bill would require the EPA to identify the 100 counties – Environmental High Impact Areas – facing the greatest threats from toxic chemicals, and to take steps to mitigate risks in these areas.

Unequal nuisance

The Bill also allows for a moratorium on new toxic chemical facilities in areas already impacted by environmental threat and nuisance.

Unequal access to decision-making

In a section specifically aimed at community involvement, the Bill also calls for the EPA to levy a fee on toxic facilities in the Environmental High Impact Areas in order to fund grants to citizens affected by toxic chemical hazards. The grants would be available to facilitate access to decision makers, and to hire technical experts to review EPA’s assessments of health effects, mitigation strategies, etc.

The Environmental Justice Act, if passed, would continue the evolutionary trend in environmental affairs that is embodied in the recent expansion towards right-to-know and positive rights (Sarokin and Schulkin, 1991). The bill would further expand the responsibilities of the federal government in several significant directions. In it, federal agencies are empowered to levy fees on private industry in order to fund community access grants. The EPA and the Occupational Safety and Health Administration (OSHA) are required to step up the pace of their compliance efforts in Environmental High Impact Areas. The bill allows a moratorium on new facilities in areas already overburdened with pollution. It directs the President to develop legislative fixes, if needed, to close loopholes in existing laws that allow excessive threats from pollution.

In 1993, with a new Administration in place, the Environmental Justice Act was revised to address additional concerns. The new draft legislation requires the EPA to act on the information it obtains, conducting inspections in the 100 ‘hot spot’ areas and imposing a new permit system for industries in these areas. Citizens are also granted the explicit right to bring suit, even against the federal government, for being subjected to “disparate treatment or impact” on the basis of race, income or ethnicity.

Would this Bill, if passed, successfully address the key issues of the environmental justice movement? Probably not. A hundred environmental hot spots may be a good starting point, but there is no guarantee that large portions of affected populations would not be left out of the equation.
Nevertheless, this is clearly a good starting point, and a way not only to address environmental inequities, but a means of taking stock – being able to evaluate for the first time the real extent to which environmental hardships are unfairly foisted on the disenfranchised segments of society in the United States.

Environmental Justice and Social Decision

The convergence of environmental protection and civil rights takes on concrete meaning in examining the world of environmental decision-making, and asking whether the decisions being made are fostering justice or injustice. As with most volatile social issues, the answers to questions like this are not always clear-cut.

Consider the toxic chemical scare in Armonk, New York State. The citizens of this well-to-do community just outside New York City – a place where ‘affluence has provided a buffer of security’, according to the New York Times – were concerned at the possibility of contaminated drinking water in their community, and the possible health effects that might result. Responding to pressure from the residents, the State of New York conducted an epidemiological survey. The results shocked the community: levels of prostate and breast cancer were much higher than the statistical norm, even though health and environmental officials considered this a statistical ‘bump’, and found no significant levels of pollutants in the drinking water. Many members of the community are convinced, however, that they are the victims of environmental pollution (New York Times, 1993b).

On the one hand, the existence of potential environmental problems in this upper-class, mostly white, neighbourhood can be taken as a sign that pollution does not discriminate. But compare the response of State officials to that of another pollution hot spot.

The mostly black and Hispanic residents of West Dallas, Texas, live in the shadow of major industrial plants, including an RSR Corporation lead smelter which spewed toxic wastes over the community for decades prior to its shut-down in 1984. State authorities ordered the company to clean up heavily contaminated sites, and the problems – at least to the environmental authorities – were solved. But the community felt otherwise. The West Dallas Coalition for the Environment documented innumerable examples of children sick with the symptoms of lead poisoning, and had samples taken to show high lead levels in children’s blood and in sites around the community. State and federal authorities considered the matter closed, however, denying the community’s request that West Dallas be classified as a Superfund site, and deciding against the need for any epidemiological studies of the population. In an effort to create a more active government response, the Coalition sued city, State and EPA officials, charging a long history of a deliberate pattern of racism in protecting – or failing to protect – the population from environmental hazards (National Law Journal, 1992).

The residents of West Dallas may well have a point. More so than any other pollutant, lead poisoning is an environmental problem with obvious societal division – the children of people who are poor and represent minority populations suffer from lead poisoning to a much greater degree than do the children of middle-class whites. An EPA report “Environmental Equity” (USEPA, 1992) had little success in firmly documenting many cases where inequity was obviously present. “The notable exception”, concluded EPA, “is lead poisoning: a significantly higher percentage of black children compared to white children have unacceptable blood-lead levels.”

Other studies have pointed out that the disparities in the degree of lead poisoning are not merely a matter of economics – black children typically show twice the number of lead poisoning cases as white children, regardless of income (Fig.2).

What can be made of these stories from the vantage point of environmental justice? On the one hand a well-off community was exposed to environmental dangers without regard to race, creed or financial status. On the other hand, a problem that may in fact be a non-problem received a high level of government scrutiny and a costly study, because the community’s residents were adept at manoeuvring the system. But it is also the case that a poor and mostly minority community was faced with a long history of pollution problems that they considered quite severe, yet the community had little success in motivating environmental officials into action. The stories present us with ambiguities. The State’s responses can only be fully appropriate if all communities are afforded a similar degree of scrutiny and protection.

Ambiguous treatment of environmental issues is not difficult to come by. A paper on environmental racism as it affects farm workers begins: “Farm workers labor under the worst conditions of any group of workers in the US. They suffer from an abundance of toxic exposures and a paucity of legal protection” (Moses, 1992). Is this true? Are farm workers, many of them migrant laborers belonging to ethnic minorities, being poisoned by their work and ignored by society at large in a blatant exercise of environmental racism?

About the poisoning there is little information.
The experience of many people involved with farm workers, combined with common sense, indicates that over-exposure to pesticides is a common and serious problem. There are innumerable cases of overt pesticide poisonings – deaths and serious illnesses amongst workers who were exposed to too much chemical over too long a time. Yet most of the information is anecdotal. There is very little information with which to paint a broad overall picture of the extent of the problem, and whether this particular segment of the population in the United States is at greater risk than any other.

The absence of reliable information is, in itself, a possible symptom of a broader social problem. Like the minority populace of West Dallas, who could not convince officials to conduct a health study, while the mainstream citizens of Armonk, New York State, had no problem with having their situation studied, the presence or lack of information can be an indicator of the presence or lack of political power – an indicator of environmental injustice.

How does ambiguity impact upon environmental justice considerations? The empirical literature in human decision-making suggests that when contexts of ambiguity emerge, the familiar course of action is followed, that ambiguity reinforces the status quo (Hogart and Kuenreuther, 1989; Baron and Schulkin, 1994). Therefore the danger of ambiguity in contexts of environmental justice is that actions will remain passive and stay with the status quo, which is not consistent with the expanding quest for justice.

Future Directions of Civil Rights and Environmental Concerns

Two fragile directions in everyday decision-making can be determined. The first is that the notion of rights is expanding; the second, that this evolution extends to the environment, with nature. It is not being argued that nature has rights, rather that duties exist towards nature. It is suggested that the health of civil rights is wedded to the health of the human environmental and cultural landscape. A sense of nature and the human roots in it provide a fundamental step in integrating the rights of individuals and the duties that they have towards the environment and to nature. This co-evolution of civil rights and environmental concerns is a healthy union of culture and nature.

Environmental concerns have converged with social justice. The authors propose that this advances culture and provides prudence in our decision-making about nature. Figure 1 demonstrates the evolution in the United States of environmental issues and civil rights. What are the next steps? Both issues, civil rights and environmental concerns, can be empowering. Environmental justice serves the other: one reinforces the need to equitably towards one another. The other is about culture, the other about nature. Each is about us and decision-making processes.

Where will this convergence lead? The authors believe that environmental justice entails a transformation to environmental concerns into the cities, increased (until now) half-hearted efforts at dealing with lead poisoning and urban air quality. It should extend beyond the national parks and treat wilderness areas, to ensure that environmental protection is extended to Native Americans and rural black and white populations.

Environmental justice should extend into the system, with laws to promote equitable protection for all, and extend into institutions so that environmental policy dialogue at the EPA, the S Club, the NAACP, and elsewhere, will include voices of those too infrequently heard in the public debates.

Environmental justice will doubtless extend outside the borders of the United State. It includes deliberation on North-South issues, so the question of whether those in the ‘First World’ can demand protection of ‘Third World’ rain-forests, after centuries of exploiting our own resources. A great deal of environmental debates over issues of global-scale damage – ozone depletion, global warming, biodiversity, rain-forests, resources – takes on a North-South polarization. Developing countries have even coined the term ‘green imperialism’ to refer to efforts of countries to limit the use of their own resources or to ask the countries to forego the advantages of using CFCs when the rest of the world has an advantage of these for decades.

The issues have the familiar ring of the in the United States between the ‘haves’ and the ‘have-nots’ over issues of environmental justice. Missing from the international arena, however, is the equivalent of an Environmental Protection Agency who could set international policy on environmental justice, or an international equivalent of Congress that could pass new laws where there is none.

Lastly, these issues extend through time and idea of inter-generational equity (Weiss-Blackman, 1993) – that generations yet unborn should have access to clean air, clean water and an environmentally robust world – means that the rights for our great-grandchildren must be championed now and all the voices demanding environmental justice carefully examined.
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