

Environmental Justice

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1. Historical background

The Environmental Justice movement has been inspired by different sources around the world. Europeans have used Marxian thinking on class hierarchy, non-Western nations sought its inspiration in the critiques of colonialism and the Civil Rights Movement was its precursor in the United States of America (Keller 2011). The concept of “Environmental Justice”, though, has its origins in the struggles of color communities and lower income-communities against uneven environmental burdens in the United States of America in the late 70’s and early 80’s. In the context of racial progress and civic activism, the term was used to designate the racial and ethnic inequalities in exposure to environmental hazard (pollutions, toxic waste, flooding) and, at the same time, the exclusion of minority groups, like African Americans, Hispanics and Native Americans, from the decision making and application of national environmental policies (Laurent, Environmental Justice and Environmental Inequalities: an European Perspective 2010).

The term “environment” was given then a different meaning. Instead of that of the traditional environmental movement, accused of not properly addressing the environment as people of color and the poor experience it, it was redefined as the place where people live, work and play (Loh 2012). Advocates of the cause began to concentrate extensively on the matter of equity, or either equities. In most of environmental justice missions, three broad categories of equity started appearing as important topics: procedural, geographic and social equities. Procedural equity is concerned about nondiscriminatory manner or fairness on the appliances of governing rules, regulations, evaluation criteria and enforcement of environmental policies. Geographic equity focuses on the location of communities and their proximity to environmental hazards, noxious facilities and discriminatory land uses. The third one refers to the role of sociological factors (race, ethnicity, class, culture, life styles, political power, etc) in environmental decision making (Bullard, 2001). Since then, the movement has united the most diverse social minority groups, like African Americans, Hispanic Americans, Native Americans and immigrants, as well as academics and many others. Besides, it has become a

global subject of debate from late 1990's to early 2000's.

Defining a particular moment in which the debate on Environmental Justice began is not an easy task, since the movement emerged from many different particular events and social movements (Cole e Foster 2001). However, some events have had an important role in propelling the debate on the causes and consequences of progress over the different minority and social groups.

The Civil Rights Movement is one of these early influences on the debate. This movement of the 1950s, 1960s and 1970s demanded social changes and brought empowerment to hundreds of thousands of African Americans, mainly in southern United States of America, but in the northern urban areas as well. It was church based civil-rights leaders, like Rev. Dr. Martin Luther King, who were in the fore of the movement (Cole e Foster 2001). The perspective of the Civil Rights movement influenced the thinking on Environmental Justice regarding the disproportionate impact of environmental hazards not as being random or consequence of “neutral” decisions, but as a result of the social and economical structure that had produced segregation and other types of racial aggression. Some Civil Rights leaders denominated it as “environmental racism” (Cole e Foster 2001).

The first mention to this “environmental racism” dates back to the famous incident that took place in Warren County, North Carolina in 1982. It was an example of the impact of the Civil Rights Movement. This predominantly African American community mobilized itself against the building of a toxic waste landfill, having the support of the national faith-based organization called United Church of Christ (Loh 2012). These protests, in which more than five hundred people were arrested for civil disobedience, triggered other investigations in southern communities of the United States of America. They culminated in the Commission for Racial Justice of the United Church of Christ's 1987 study denominated “Toxic Waste and Race in the United States”, which represents a landmark of the Environmental Justice movement and highlights its roots in the civil rights struggles and its church background (Cole e Foster 2001). It showed that race was the most important indicator of the location of hazardous waste facilities all over the United States of America and that three out of five Black and Hispanic Americans lived in a community with uncontrolled toxic waste (Loh 2012). The report is probably the most important document on the disproportionate hazards on ethnic minorities and the one that stimulated the movement the most (Cole e Foster 2001).

The mainstream environmentalist movement is another important tributary, by energetically emphasizing the great connection between humans and nature. By the 1960's the environmental movement saw a shift, because it realized that human action was wreaking the natural environment. Rachel Carson's 1962 book “Silent Spring” represents a defining moment for the traditional environmentalist movement. It called attention to the fact that, even though modern science and technology made life safer, healthier and more pleasant for mankind, the

physical and biological environment was suffering extensive damage (Newton, Environmental Justice 2009). Environmental Justice activists say the mainstream environmental movement has little relation to the Environmental Justice movement because of its white/Caucasian middle or upper class basis. Robert D. Bullard noted that it is unlikely that mainstream environmentalists would be strong advocates of the Environmental Justice movement, but they have shown that its fight can help to enhance general quality of life (Newton, Environmental Justice 2009). So Environmental Justice movement transcends the environmental movement, being historically bonded to environmental issues, but situated within the history of movements for social justice (Cole e Foster 2001).

Another movement that has contributed to the debate on Environmental Justice is the Anti-Toxics movement, which represents communities that resisted and organized against hazardous waste facilities, landfills and incinerators. Its roots stand in the late 1970's, when Jimmy Carter declared Love Canal, New York, a disaster area and evacuated the inhabitants of a former toxic waste dump (Cole e Foster 2001). Since then, the Citizens Clearinghouse of Hazardous Waste, an entity created by former inhabitants of Love Canal, has been assisting thousands of local groups to protest against toxic waste hazards. Anti-toxics movement have become more than local actions, participating effectively of the policy making debate through the idea of "pollution prevention", which means eliminating the use of toxic chemicals in industries aiming at stopping the production of toxic waste (Cole e Foster 2001). Additionally, its importance comes from the fact that it demonstrated that some communities would be polluted by toxic waste as a natural result of the structure of the economy.

Despite its character as a movement essentially driven by social forces, it's important to highlight that some scholars have deeply contributed in the early stages of the Environmental Justice movement. Some academics were able to develop early studies on the disproportionate hazard distribution of the progress. The most prominent of them, Robert D. Bullard, in 1983, by analyzing the pattern of siting for municipal landfills, incinerators, waste transfer station and other forms of waste disposal facilities in Houston, discovered that all of the city owned landfills were located in African American neighborhoods, six of eight garbage incinerators were in the same areas and the remaining two lied in one predominantly Hispanic American area and one predominantly white area (Newton, Environmental Justice 2009).

In 1991, under the auspices of the Commission on Racial Justice of the United Church of Christ, there happened the first "People of Color Environmental Leadership Summit" (Newton, Environmental Justice 2009). It gathered more than 500 delegates representing African Americans, Latino Americans, Asian Americans, Native Americans, but also many delegates from other countries in Washington, DC (Loh 2012). The 17 Principles of Environmental Justice defined then are regarded as the guiding principles of the movement. Soon, Spanish and

Portuguese translations of these 17 Principles were already being used by NGOs and environmental justice groups at the Earth Summit in Rio de Janeiro in 1992 (Bullard, 2001).

By the first decade of the 21st century, the movement already was a very strong, diversified, active, and successful initiative. Every report of the People of Color Environmental Groups Directory showed an increase in Environmental Justice groups in the USA, Canada, Mexico and Puerto Rico. They increased from 205 groups in 1992, to more than 400 in 2000. Besides, many successful struggles by environmental groups against corporate groups and governmental agencies continued to be reported in several of the movement's academic and literature works (Newton, Environmental Justice 2009).

2. Statement of the issue

2.1. The meaning of environmental justice

Environmental justice is the recognition of disparities among people in costs and benefits distribution, meaning that the concept is in fact a call for equality. Its base relies on the idea that all human beings are equal and should be treated as such, so the discussion over environmental justice is a discussion about social justice as well, its meaning and its implication. For social justice is such a controversial concept, whose discussion is not in this chapter's scope, we will limit ourselves in briefly explaining the ideas that endorse environmental justice's claims.

The theory that better fits environmental justice is the deontological one (Keller 2011). John Rawls, a prominent philosopher in the Deontology thinking, advocates for the intrinsic value and inviolable rights of every human being. The two principles of justice that underlie his ideas and that should be guaranteed by society are: persons have equal rights to the basic liberties and inequality is only justifiable if it serves for benefiting those who do not have the same access to basic liberties (Rawls 1999). In this sense, "on the Rawlsian model, environmental injustice occurs when a social group bears a disproportionate burden of the costs on industrialization in comparison to a wider population, and that group would be better off without industrialization" (Keller 2011 p. 302).

Based on these ideas, environmental justice can be related not only to costs and benefits' distribution, but also to the capacity one has to reach and impact societies' decision's instances—for both issues are intimately associated. Therefore, in order to address environmental injustice it is necessary to comprehend how environmental hazards affect some people more than others and these people's political voice to react to this misdistribution.

2.1.1. Costs and benefits distribution

Evidence suggests that industrial facilities are much more often placed at low-income and minorities residential areas than in middle or high-income

communities. This situation implies that these populations suffer more with environmental hazards due to their proximity to polluted sites and do not benefit from the economical development, once their living standard does not improve (Cole e Foster 2001). The consequences of this state are serious, affecting people's lives, health and social status.

To live in an area near polluting facilities means being more vulnerable to diseases. The higher level of exposure to toxic substances, either indoor or outdoor, can increase the occurrence of certain kinds of illness in the population, such as cancers, respiratory problems, immune systems injuries, and even genetic defects (Pellow 2006). Furthermore, some studies found out a linking among low-income residential areas, environmental hazards and fewer environmental amenities like trees, parks, and nature contact, that are proved to be related to stress and health levels. Finally, for their economic status the neighborhoods are frequently weak structured, meaning that health care facilities are not in their best conditions (Hornberg e Pauli 2007).

The concentration of environmental hazards in these areas can also be responsible for spatial segregation. The uneven distribution of costs in low-income residential zones can create a vicious cycle, where lands near these areas loose value and attracts people who cannot afford a property in more expensive locations. The perpetuation of such segregation results in closed social networks, which affects people's life in economical and political instances as jobs opportunities and social relations (Cole e Foster 2001).

2.1.2. Decision-making process

Laws and their enforcement are also another factor to be considered when analyzing environmental justice, having two important issues to be pondered: the State's actions and the population political power.

Firstly, the State fails to guarantee poor communities' rights (The World Bank 2003). The literature defines two main ways government can take part in the location of risky facilities, the passive and the active. In the passive way, the industries take the leading role in finding a place to sit its facility and then asks for the State's permission, and in the active way, the States determine regions where such facilities can be located, zoning its territory (Cole e Foster 2001). In both situations the environmental injustice is likely to perpetuate. In one hand, when companies look for lands they will tend to choose the cheap ones, that are usually low-income or minorities' residential areas. Once the State assesses the company's demand it relies primarily on technical criteria, not taking into consideration aspects like the existence of other unsafe facilities. On the other hand, the zoning made by the State to determine industrial areas may also take into account the land value or location (far from the city downtown, for instance), again reaching to economic disadvantaged areas (Cole e Foster 2001).

Secondly, low-income and minority communities do not always have the

power to influence government's decision. Their political invisibility prevents them from posing their demands and needs to politicians. These populations are highly excluded from formal political mechanisms (like political parties) and informal (like advocacy groups) (The World Bank 2003). In this scenario, those communities are less able to pursue their rights and the enforcement of laws, creating a non-reactive environment for industries to sit their toxic facilities. This means that those that are the most affected by environmental hazards are also those that have less possibility to influence State's decisions.

2.2. Why does environmental injustice happen?

There are a few models aimed at explaining environmental injustice, or why some populations are more affected by development costs than benefits. Some of them focus primarily on the costs and benefits distribution while others focus on the decision-making process. None of them, however, is consensual among the scholars interested in the subject. Adopting one or another theory to explain environmental injustice determines the measures suggested for minimizing the problem, which is a major issue in today's government's policies.

2.2.1. Market dynamics

Those who defend the market dynamics causation support that the affected people choose to live in dangerous areas. Based on economical rationality, the core of this proposition is that once a polluting facility is installed in a particular area the land prices there decrease, attracting those who cannot afford a place somewhere else and expelling those who can (Rhodes 2003). This devaluation of the land price would also attract those who do not have much money to buy their house, moving to those areas. According to this view, then, minorities and poor populations would locate themselves in high-risk, unhealthy areas, because they rationally decide to do so. The situation is even more critical if we consider also the State omission regarding the control of the market. Neoliberal policies that endorse market's freedom end up benefiting those mechanisms, worsening the crisis situation. The criticism of such ideas lies on the conception of free market, once it is considered to be a social construction and not as free as it is expected for the theory to work (Cole e Foster 2001).

2.2.2. Lifestyle

The lifestyle explanation relies on the social situation or status as a major factor for the disparities in costs and benefits shares. What would explain those differences is the "person activities", such as jobs, or their preferences. Accordingly, the affected population would be, for instance, those who work in farms that use pesticide or those who work in heavy industries. Most of the employees who work in environmentally hazardous facilities such as those, however, belong to

minorities and low-income populations due to their low skill and educational levels (Cole e Foster 2001). Again the explanation attributes to the affected people the power to choose to live dangerously, not taking into consideration the fact that a less qualified worker would not find any other job (Cole e Foster 2001).

2.2.3. Communities priorities

Following this argument, environmental issues would have had little or none attention in the poor communities' economical and political agenda over time. The reason would be that these people were more interested in discussing education, health, drugs and criminality, resulting in neglect on their part regarding risky facilities' sittings (Rhodes 2003). Communities that did not have such concerns had the political organization necessary to expel such undesired installations, and that would explain the uneven distribution of environmental menaces.

2.2.4. Intentional decision-making

This view implies that the location of risky facilities in minorities and poor communities areas is intentional, either by the State or by the enterprises. Some authors (Cole e Foster 2001) have already found some evidence that States sometimes commit environmental injustice when zoning the cities, resulting in a higher level of industrial zones in low-income and minorities' residential areas. On the other hand, when a company is deciding where to locate a facility it takes into consideration several facts, such as costs, proximity to roads, and legal issues. In this context, enterprises would deliberately choose areas next to low-income and minorities' residential areas for they are usually distant from important city centers, meaning their land price is below average and they have less voice next to government instances (Cole e Foster 2001). Environmental laws' enforcement, then, would be weaker or even non-existent, which translates into a much lower possibility for the company to face judicial issues.

2.3. Who are the most affected people?

Environmental injustice can present itself in two ways: as an issue of a specific site or an issue for multiple sites (Rhodes 2003). They have different causes and implications, which makes classification as one or another important for policy decision-making. The most common kind is the specific site one, which happens when a defined area is affected by any environmental hazard, more than larger areas surrounding it. In such cases, usually the main cause is the existence of one or multiple polluting facilities nearby and the population that suffers with its consequences is limited to the ones living in the region. The risk factor, then, is living in these communities and appropriate measures to be taken would have to take into consideration these communities unique characteristics. High attention should be given to determine measures to be taken in such cases, once in one side

there are the negative side effects of those industries, but on the other side there are all the jobs that have been created for people living nearby. Decisions, then, have to be carefully thought and must take into account all those issues.

The multiple areas environmental injustice relies, differently, on common features that diverse communities have. This is the case of the so-called environmental racism, which reveals a pattern of racism in the installation of polluting facilities. Researches over the racism practiced in landfills' sitting in the United State in the late 80's are, as previously said, the roots of the environmental justice discussion. Studies have already pointed out that minorities groups have a higher probability of living in highly polluted areas (Rhodes 2003) (Cole e Foster 2001). Other studies defend that the chief determinant is in fact the economical power, and not the race. In any case, the approach required for understanding and dealing with the subject is based on the people's characteristics and policies should be made in race and economical sensitive manner.

2.4. Environmental justice at the global level

Despite environmental justice groups major concern is over communities affected by environmental injustice, the discussion occurs also at the global level. The shock happens between developed and in development countries in very similar ways to the ones inside the countries. The core of the debate is the same in both cases: poor countries have less power and ability to demand more respect for their environment. Developed countries, then, treat underdevelopment ones in the same way that the State and industries treat low-income communities (Newton, Environmental Justice 2009). Globalization has strengthened such pattern, once capital has now more freedom to move around the world. Examples of environmental in justice among countries are endless: developed countries sending waste to dispose in poor countries, polluting industries being transferred to underdeveloped countries, expensive ecotourism being developed in indigenous areas.

Intrinsically linked to environmental justice at the global level are the flows of foreign direct investment (FDI), which are ultimately the ones responsible for environmental hazards misdistribution. This premise gives rise to the "pollution haven" hypothesis, which affirms that the differences among national environmental regulations influence the companies' decision on where to invest (Zarsky 1999). The incentive can be made, then, from two directions: firstly, the company can decide to invest elsewhere due to environmental compliance high costs in developed countries; and secondly, less developed countries can adopt by themselves low environmental standards policies to attract foreign industries.

Notwithstanding, the debate is specially related to climate change matters (Ikeme 2003). In this case, States in development would be the ones that endure disproportional environmental hazards, such as droughts and floods, aggravated by their low capacity of recovery from environmental disasters due to their lack

of financial resources and technical knowledge. On the other hand, being climate change intensified by man's action, higher income countries are the ones that contribute the most to the phenomenon and that are more capable of successfully recover from disasters (Ikeme 2003).

This discrepancy leads to different understandings of environmental justice. The two opposed theories are the "common but differentiated responsibilities", supported by countries in development, and the efficient technology path, sustained by the richer ones. The first view advocates for industrialized countries' historical compensation, meaning that they have more effort to do now for they have harmed more the environment during their development. Environmental justice, then, would have to take this into account and countries in development would be less committed in changing their development pattern in order to diminish impacts on the nature (Ikeme 2003). Developed countries, on the contrary, believe that responsibilities should be shared equally from now on, despite history. They encourage the use of more efficient technology in order to create a cleaner industrialization process, ignoring past differences and the economical gap among States (Ikeme 2003).

3. Previous international actions

Environmental justice at the global level has come to be a quite complex matter. There are issues from degraded environment that cannot support a healthy life, to food security and to the disproportionate effects of climate instability. These problems may be directly related to the international activities or even actions that take place across national borders and they may reach such a level that present a logical relation to human rights (Rechtschaffen, Gauna e O'Neil 2009). In this sense, environmental injustice is certainly related to economic inequality, race and gender subordination, as well as the colonial and post-colonial domination of the North nations over the global South (Gonzalez 2012).

Since their respective period as European colonies, Latin America, Asia and Africa have been incorporated into the global economy as exporters of raw material and importers of manufactured goods, and this has generated serious problems to their environment and development. Forests, indigenous peoples, and local ecosystems have suffered from the plantation agriculture, mining and logging (Gonzalez 2012). And later the system of racial oppression has been internalized by local post-colonial elites, who would keep the indigenous communities subordinated for the sake of modernization and development.

So the North-South dimension of international environmental justice has generated the most controversial debates. It is known that, through the overconsumption of natural resources, developed countries have contributed extensively to several environmental problems. Poor countries, though, are the ones which suffer the most, even if their historical contribution to the environment degradation is much smaller. Vulnerable geographical locations, lack of resources

to adapt to climate change and to respond to environmental disasters, and lack of administrative infrastructure to control waste disposal, logging, mining, and petroleum development are some of the disadvantages which add to this disproportionate burden (Gonzalez 2012). Further, the countries of the global North have dictated the decision-making process in the International Monetary Fund (IMF), the World Bank, the World Trade Organization (WTO), and other multilateral fora for long, given their greater economic and political power, even if the South is able to present alternative points of view (Gonzalez 2012).

For this reason, the major struggle concerning environmental justice in the international domain of politics has been the integration of the principle of “equity” into international environmental law and institutions. This principle addresses the particular circumstances of developing countries, putting aside the idea of sovereign equality between nations, so that the rich countries do not insulate themselves from responsibility (Orhan 2009). In this sense, some actions have been taken concerning environmental justice by international fora and organizations. Hazardous waste disposal, climate change and sustainable development have been amongst the main objects of attention.

The principle of “common but differentiated responsibility” of nations has been invoked as a matter of environmental equity. In the 1972 United Nations Stockholm Declaration on the Human Environment, this principle was implicit. It recognized the special circumstances of the developing countries and called for equitable conditions to lighten their burden (Orhan 2009). For this purpose, the Declaration’s Principle 11 says that “the environmental policies of all States should enhance and not adversely affect the present or future development potential of developing countries...” (United Nations 1972). This same conference resulted in the foundation of the United Nations Environment Program (UNEP) in 1972.

In both the 1972 Stockholm (Principles 21 and 22) and the 1992 Rio Declaration (Principles 2 and 13), there was a calling on states to take responsibility for the transboundary damages resulting from activities within their jurisdiction. Taking the matter forward, the second declaration discouraged the transboundary shipment of hazardous activities and substances (Principle 14) (Orhan 2009).

From the 80’s onward, the international trade of hazardous wastes has been a matter of increasing concern. In May 1981, the governing council of UNEP took the first formal step towards an international agreement over this subject by appointing the Ad Hoc Committee of Legal Experts which should review the problem of international trade in hazardous wastes. Afterwards, a series of organizational meetings involving experts from 96 nations and 50 organizations happened in Budapest, Geneva, Caracas, Luxemburg and Basel. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal was signed in Basel, Switzerland in March 1989. It was signed then by 103 nations and established requirement for the shipment of hazardous wastes between them (Newton, Environmental Justice 2009).

The United Nations Framework Convention on Climate Change (UNFCCC), first launched in 1992 as a result of the Rio Summit, regarding the greenhouse gas emissions has noted “that the largest share of historical and current global emissions has originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and developmental needs” (United Nations 1992b). The statement represents an important moment on the debate over the responsibility of the climate change burden. It was a clear mention of the principle of “common but differentiated responsibility”, and determined that developed countries should take the lead on fighting the climate change evolution.

The World Summit for Social Development, which took place in Copenhagen in 1995, emphasized the importance of an equitable social development through empowering the poor to utilize environmental resources sustainably, aiming a sustainable development. It also adds that “economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development, which is the framework for our efforts to achieve a higher quality of life for all people” (United Nations 1995).

In the Danish city of Aarhus in 1998 took place The United Nations Economic Commission for Europe’s (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. It was an important contribution to procedural human rights that may help to tackle environmental injustice. It empowered citizens to challenge governmental non-compliance with environmental commitments (Gonzalez 2012). Furthermore, it is open for countries outside Europe to sign.

Regarding the environmental rights of indigenous peoples, the United Nations Declaration on the Rights of Indigenous Peoples adopted in 2007 by the General Assembly has recognized the historical injustices resulting from colonization and the dispossession of their lands, territories and resources, which has prevented them from the right to development. In its articles 29 and 32, the declaration determinates first that indigenous peoples have the right to conservation and protection of their environment and the productive capacity of their territories and resources without discrimination, that States should take measures to ensure that no storage or disposal of hazardous materials shall take place in the lands of indigenous peoples without their consent, and last that States have to consult and cooperate with them before approving any project that may affect their land, particularly regarding the development, utilization and exploitation of mineral, water or other resources, as well as to take appropriate measures to mitigate adverse environmental, economic, social and cultural impacts (United Nations 2008).

The United Nations Development Program’s Human Development Report 2011 “suggest that in many cases the most disadvantaged people bear and will

continue to bear the repercussions of environmental deterioration, even if they contribute little to the problem” (UNDP 2011). The report shows that it is clear that environmental justice is equally related to development and human rights and that environmental justice has become of concern of the most diverse agencies of international governance.

In addition, global and regional tribunals have interpreted human rights treaties to permit claims against states by inadequate environmental protection. International human rights law has therefore become a significant instrument to promote environmental justice. Despite the lack of explicit environmental human rights, environmental degradation has been linked to human rights violations under the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the American Convention on Human Rights. However, environmental human rights are explicitly recognized by the African Charter on Human and People’s Rights and the Additional Protocol to the American Convention on Human Rights in the Areas of Economic, Social and Cultural Rights (San Salvador Protocol) (Gonzalez 2012).

Finally, the United Nations Environment Program’s (UNEP) most recent action which contributes to enhancing environmental justice was the creation of the International Advisory Council for the Advancement of Justice Governance and Law for Environmental Sustainability. It follows the Rio+20 World Congress on Justice, Governance and Law for Environmental Sustainability’s calling for the creation of an international network to support actions to achieve sustainability. The nine-member advisory council aims to be a powerful global advocate for law, justice and good governance by providing information, data and technical assistance to governments and other bodies, supporting the development and implementation of environmental law and encouraging the advance of environmental jurisprudence (UNEP 2012).

4. Bloc positions

As the country where environmental justice has born, it is expected for the **United States of America** to have a well-developed framework for dealing with the issue. In fact, the problem did get some attention from the government in the 1990’s, but it has mainly been concentrated in the ethnic aspect, and with the emergence of other concerns in the beginning of the 21st century, the matter has been left aside. The federal government has relegated much of the decisions to the states and the Environmental Protection Agency gives some guidance in the sitting of pollution sites to states, but the final decision over the permitting process is still up to each of them. For this reason, environmental justice regulations vary widely inside the country (Newton, Environmental Justice 2009). Besides, the enforcement of previous directives remains very low, which leaves

a large population unattended. USA neighbor, **Canada**, has not developed the same consciousness about the problem. The country has done little research and action over it, although some studies have already demonstrated the unequal distribution of environmental hazards among the population. The most affected ones are the resource-dependent communities, aboriginal people and low-income communities. Again the federalism makes unclear who is responsible for dealing with it, and neither the federal nor the states' government take action on the matter (CNEHSE 2008). The country has, however, stood against the United Nations Declaration on the Rights of Indigenous Peoples, positing concern over the need to achieve balance between the rights and obligations of indigenous people and States.

The **European Union** debate over environmental justice is much younger than the USA. The adoption of common policies over the matter has only started in the early 2000's. Also, the European discussion focuses on the social reasons for environmental injustice, while Americans place emphasis on the racial dimension. The **United Kingdom** has been one of the first UE members to take action. In 2005 the kingdom has adopted a sustainable development strategy, "Securing the Future", putting the executive responsibility of addressing environmental injustice to the states. In 2007 the government has released a series of reports assessing the issue in its territory and recognizing the extent of the problem to be dealt with (Laurent, Issues in Environmental Justice within the European Union 2011). Supporting international efforts in the area, the United Kingdom has also a representative in the UNEP International Advisory Council for the Advancement of Justice Governance and Law for Environmental Sustainability. **France** and **Germany**, on the other hand, have only entered the discussion later. The French government has not yet put environmental justice in its national agenda, albeit there is evidence that shows how polluting sites are disproportionately located near minorities' communities (Viel, et al. 2011). In Germany the discussion is closer to the public health discussion. One indication of such pattern is the inclusion of environmental conditions in the scope of the Health Program in North Rhine-Westphalia (APUG NRW), which is a regional program focused on preventive environmental and health protection. Although **Sweden** has played an important role in the sustainable development discussion, environmental justice is still not an important issue in the country. The country has even been called to Court by the European Union for not complying with a directive from 2007 that establishes a licensing process for industrial and agricultural polluting sites. In fact, environmental infringements have represented 29% of Swedish infringements against European Union law in 2012 (European Union 2013). In order to apply for a place in EU, **Turkey** has been harmonizing its environmental legislation accordingly to the European one. Some of the measures taken, however, are not being effectively used, such as Environmental Impact Assessment, that has been sometimes positively assessed by the government in doubtful cases.

Emerging countries, due to their development status, are in the mid-way between being the debate over external or internal factors causing uneven distribution of environmental hazards. At the same time that they are more aimed by foreign direct investment flows, the spatial location of such investments tends to provoke environmental injustice. **Russian Federation** major issues concerning the theme are related to industrial development and transportation of valuable goods, such as fossil fuels and mineral resources. The most affected populations are those living in Siberia, specially the indigenous ones, who do not benefit properly from those economical goods. The country's environmental law is evolving over time, but it lacks effectiveness (Donohoe 2009). Native population's demands for protection over their environment have been constantly denied by the federal government, not only but also due to the confusing legal system, that does not clarify some points concerning administrative authority. **Brazil** is a country highly acknowledge by its involvement in environmental and development relations' discussions, especially since the United Nations Conference for Environment and Development, held in Rio de Janeiro in 1992. The uneven social development of the country, however, translates into severe environmental injustice issues. Ones of the most affected populations are those living near rivers and the indigenous populations, who have little or no influence in the definitions of dams and extractive reserves' locations. Society has organized itself in a Brazilian Network for Environmental Justice, but efforts have not been very successful until now (Herculano e Pacheco 2008). Also, the country has a representative in UNEP International Advisory Council for the Advancement of Justice Governance and Law for Environmental Sustainability. The **People's Republic of China** rapid development also is causing unequal distribution of costs and benefits. The differences are creating a vicious cycle, deteriorating social equality in the country. This is especially true if we consider the government's policy to determine the location of foreign direct investments—the special economic zones. There has been some positive legislative evolution on the matter, though. **India** is another country that is having a fast economic growth that is causing a gap in environmental conditions among communities. The situation is aggravated by the tribal structure inside the country. One regulation of 1987, for example, states that a tribe can claim for a Treatment as a State, which allows it to set its own water quality standards, since it did not lowed the national legislation standard, implying that some regions may have an access to better water than others (Whyte 2011). This applies also to some other environmental regulations, and brings up the discussion about the environmental justice implications of such measures.

In **Latin America**, environmental justice claims are deeply linked to social equality claims, which have been present in the region's history for a long time. Social movements have grown during the Cold War period, when dictatorships were commonplace in the region. Demands for environmental justice, then, already have an arena to be posed and have been encompassed by social justice

call (Carruthes 2008). South America has seen a large number of mobilizations linking international economy to environmental hazards—mainly directed against the entrance of foreign capital (Walker 2009). This happens also because of the high level of indigenous population in the sub-continent, which have a very close relation to the environment, and which could be dislocated due to investment's plans. This is the case of **Bolivia**, where society has adopted several ways to resist the privatization of natural gas and of water. At the international level, also, the country, alongside with **Venezuela**, stands out for its advocacy for “equally but differentiated responsibilities” over climate change. Both countries have participated in the Cochabamba People's Summit, an anti-Copenhagen conference held in 2010, and claimed for Southern countries to unite and fight against North's intentions of equally sharing climate change's costs (Sugget 2010). The region, however, has also seen disputes related to environmental justice. **Uruguay** and Argentina share part of the Uruguay River and in 2002 the population in the Argentinean side started to protest against pulp mills that were going to be installed in the Uruguayan side. The dispute was brought to the International Court of Justice, which ruled that Uruguay had only violated the need to provide an Environmental Impact Assessment, but could keep its activities (Merkouris 2010).

As previously noted, among countries it is also the poorer ones that suffer the most. This is the situation in **Papua New Guinea**, where most of its environmental justice problems arise from external actors. When it gained independence, in 1975, the country maintained Australia's practice of selling its mining rights to foreign companies. Most of them do not paid attention to the country's environmental law, and the government even exempted some of them from compliance. The consequences on the population are very harsh, but the activity is one of the most profitable in the island (Newton, Environmental Justice 2009). **Bangladesh** is considered to be one of the most vulnerable countries to climate change, and its government does not have capacity to protect all of the country population. Poverty levels are very high, and millions of people are obliged to live in risky areas. Besides low-income communities, women are also at a high vulnerability level, once the culture is very sexist and many women die in floods for not knowing how to swim or for staying home waiting for their husband to come back and make the decision to what to do (Environmental Justice Foundation 2012). Environmental injustice, then, is focused on one's social position.

Africa is a target for hazardous waste exports, despite international efforts to ban such flows. **Nigeria** is one of the most envisioned countries for such trade, but environmental injustice in the country is caused mainly by the location of petroleum-related industries. Oil represents a huge share of the country economy and its production sites are concentrated in the South of its territory, meaning that all the pollution produced affects only part of the population. For this reason in 2000 the government created a Niger Delta Development Commission, whose

mandate is to ensure environmental recovery in the areas most severely disturbed. Also it has been established a monetary compensation for destroyed crops, productive trees and fishes (Ikporukpo 2004). **South Africa** had a very early awakening over environmental justice, for in the beginning of the 1990's there was already in the country an Environmental Justice Networking Forum. The South African movement had a high influence from the American one, especially due to its focus on environmental racism—which is much clearer in a country where racism was institutionalized. After the end of the apartheid, the country has included environmental rights in its Bill of Rights. Lately, however, the discussion has been overlapped by the sustainable development issues (Walker 2009).

Countries in the **Middle East** suffer a lot with water shortage, meaning that the resource is not equally available to everyone. The Middle East and North Africa region is, in fact, the most water scarce area in the world. This results in 50 million people lacking access to safe drinking water (Near East Observatory 2013) and severe damage to agriculture. The United Nations Development Program assists the countries in the region to develop Integrated Water Resources Management plans, believing that the problem should be treated collectively. Also in order to manage the problem it has been created the Arab Water Council, in which **Saudi Arabia** takes part. Saudi Arabia also has environmental justice concerns related to the location of its oil industries facilities, which are highly polluting. In Israel environmental injustice shows itself clearly in the country's relations with Occupied Palestinian Territories. According to Israeli Water Commission, the average per-capita water consumption of a Palestinian is 83 m³/year, while for an Israeli it reaches 277 m³/year (Heinrich Böll Stiftung Middle East 2007). Although the country has recognized Palestine water rights in the Oslo Agreement of 1995, it will only approve it after reaching a final agreement between them. **Pakistan** can be considered to have a very developed environmental justice framework, since it has a Committee for Enhancing Environmental Justice whose mandate is to implement the initiative “Building Capacity for Environmental Prosecution, Adjudication, Dispute Resolution, Compliance and Enforcement in South Asia”, funded by the Asian Development Bank. The country does not have environmental justice legislation, but Chief Justice Iftikhar Muhammad Chaudhry said in the South Asian Conference on Environmental Justice that the country considers environmental justice essential for the right to live, and therefore works towards it (Pakistan Today 2012).

In **Australia**, the discussion has not yet gained much importance in the country's agenda. However, aboriginal and low-income populations do suffer from environmental injustice. The country's Environmental Protection Agency in 2010 has recognized the need to develop policies regarding environmental justice, and it has in November 2012 released an Environmental Citizenship Strategy to comply with such positioning (Environment Defenders Office (Victoria) 2011). **Indonesia** has environmental justice issues related to the use of the environment

for its development, in the sense that the central government wants to regulate it by the country's economic need, at the same time that local governments want to manage the environment based on their dependence on it. The country has a robust environmental law framework, which also covers some environmental justice matters, but it lacks enforcement, resulting in an almost ineffective system (Nurjaya 2007). **Japan** was the host of the gas emission control protocol signature, the Kyoto protocol, which creates duties based on the "common but differentiated responsibilities" principle. Notwithstanding, the country has positioned itself against the principle.

5. Questions to ponder

What are the main causes of environmental injustice? Is it just for companies not locate their facilities in determined area in order not to affect communities nearby? Is it just for communities to be affected by such enterprises?

Do the governments have any responsibility over it? Can they do something about it?

Should the international community stand over such issue, specially if the market is the one to blame for environmental injustice?

When considered at the international level, is there anyone to blame over environmental injustice? Aren't States responsible over their own decisions (including the acceptance of other countries' waste or FDI, for example)?

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Abstract

Environmental justice is the idea that all environmental costs and benefits of development should be equally distributed across the population. The concept emerged mainly in the 1980's, when studies first showed that in the United States of America the incidence of pollution was higher in poor communities. In this sense, the matter of environmental justice also comprehends the idea of social justice and how economic and political inequalities have influence over the distribution of environmental costs and benefits. On the one hand, the placement of highly polluter industries or landfills, for example, would be more likely determined to be in low-income settlement regions because people living there would not have the power to react against it. On the other hand, some argue that the cause is on reverse: low-income populations would settle down in hazardous areas after the industries are there located, since lands in industrial areas are cheaper than in other areas of the cities. Thus, independently of the temporal ordering, both visions relate environmental injustice with economic inequality. Environmental injustice also affects fundamental human rights, such as the right to live with dignity. People living near polluted areas are more likely to have health problems, due to air pollution, animal proliferation and contaminated water. Besides, since those people do not have political influence, polluting industries are hardly ever accountable for their violations. Environmental justice has, then, two dimensions: the participation in the decision-making process and the fair distribution of costs and benefits.